

# Mrs Maria Solera Marquez: Professional conduct panel meeting outcome

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

**April 2022** 

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

**Teacher:** Mrs Maria Solera Marquez

Teacher ref number: 0433143

Teacher date of birth: 21 January 1971

TRA reference: 19936

**Date of determination:** 25 April 2022

Former employer: The Village School, Kingsbury, London (the "School")

#### Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 25 April 2022 by video conference, to consider the case of Mrs Maria Solera Marquez.

The panel members were Mr Paul Hawkins (teacher panellist – in the chair), Mrs Valerie Purnell-Simpson (lay panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Samuel Bumby of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mrs Solera Marquez that the allegations be considered without a hearing. Mrs Solera Marquez provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer Matilda Heselton or Mrs Solera Marquez.

The meeting took place in private.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 5 April 2022.

It was alleged that Mrs Solera Marquez was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at The Village School during the period September 2019 to October 2020:

- 1. On one or more occasions including on 22 October 2020 she:
  - a. used scissors as a behavioural management technique in order to get Pupil A to comply with instructions despite knowing that:
    - i. Pupil A was scared of scissors and/or didn't like his hair being cut;
    - ii. Pupil A was vulnerable and/or non-verbal;
  - b. used Pupil B as a way to get Pupil A to comply with instructions by chasing him and/or scaring him.
- 2. Her conduct at allegation 1a above was done without parental permission.

The teacher in a statement of agreed facts dated 22 February 2022 admitted allegations 1 and 2. Mrs Solera Marquez further admitted that the facts of the allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

# **Preliminary applications**

There were no preliminary applications.

# Summary of evidence

#### **Documents**

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

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of proceedings, response and notice of meeting – pages 5 to 15

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 17 to 21

Section 4: Teaching Regulation Agency documents – pages 23 to 145

Section 5: Teacher documents – pages 147 to 159

The panel members confirmed that they had read all of the documents within the bundle, in advance of the meeting.

#### Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mrs Solera Marquez on 22 February 2022.

#### **Decision and reasons**

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mrs Solera Marquez for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mrs Solera Marquez was employed as a teacher at the School during the period September 2019 to February 2021. Following a report from a member of the Brent special school nursing team on 23 October 2020 detailing her concerns about Mrs Solera Marquez's interactions with Pupil A, Mrs Solera Marquez was suspended whilst an investigation was conducted by the School. Mrs Solera Marquez was dismissed from her position at the School in February 2021.

## Findings of fact

The findings of fact are as follows:

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

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at The Village School during the period September 2019 to October 2020;

- 1. On one or more occasions including on 22 October 2020 you;
  - a. Used scissors as a behavioural management technique in order to get Pupil A to comply with instructions despite knowing that:
    - Pupil A was scared of scissors and/or didn't like his hair being cut;
    - ii. Pupil A was vulnerable and/or non-verbal;
  - b. Used Pupil B as a way to get Pupil A to comply with instructions by chasing him and/or scaring him.

The allegations were admitted and were supported by evidence presented to the panel within the bundle. In addition to the Statement of Agreed Facts referred to above the panel also considered the investigation report by the School. There were statements and evidence collated during the course of the investigation that was before the panel. In its determinations the panel did not take into account any of the investigation findings.

The panel firstly considered allegation 1 (a). In the Statement of Agreed Facts, Mrs Solera Marquez accepted that she used scissors as a behavioural management technique in order to get Pupil A to comply with instructions on a number of occasions.

The panel also considered the evidence of those individuals who were interviewed as part of the School's investigation. The panel found that there was evidence that the scissors had been used as a behavioural management technique on more than one occasion from multiple sources which were independent of each other.

The member of the Brent special school nursing team who reported the incident which occurred on 22 October 2020 noted in her original email that Pupil A was due to be weighed as part of his health review but was sitting on the ground outside the classroom and refusing to cooperate. She went on to explain that "The class teacher Maria then came out with a pair of scissors in a chopping action towards [Pupil A], [Pupil A] got up as he seen the scissors as he appeared scared and ran into the classroom." This statement was corroborated by interviews with another member of the Brent special school nursing team and another teacher at the School who witnessed the incident. In her interview, Mrs Solera Marquez said the scissors were sometimes used as "a tool for [Pupil A's] personal and best interests".

The panel considered the context of the use of scissors with Pupil A. The evidence demonstrated that Pupil A did not like getting his hair cut as he did not like his hair to be touched, and that Pupil A's mother had given verbal permission for the School to trim his hair whilst he was engaged in an activity. This was known by Mrs Solera Marquez who had used scissors to cut Pupil A's hair in this way. The panel found that Pupil A was scared of scissors being used to cut his hair but that there was not sufficient evidence to find that Pupil A was scared of scissors *per se*.

The panel also found that Mrs Solera Marquez knew that Pupil A was vulnerable and/or non-verbal, given Mrs Solera Marquez was his teacher and that the School caters for children with special educational needs.

Having considered the evidence in the bundle, the panel determined that this was not an isolated incident and that the use of scissors as a behaviour management technique had happened on more than one occasion. In addition to Mrs Solera Marquez's admission in the Statement of Agreed Facts, [redacted] who was in Mrs Solera Marquez's classroom during 2019 told his interviewer that he saw Mrs Solera Marquez use the scissors as a behaviour management technique with Pupil A on "multiple occasions". Mrs Solera Marquez told the interviewer that the scissors were used "a couple of times a day".

On balance the panel found the facts proven in relation to allegation 1 (a).

The panel then considered allegation 1 (b). In the Statement of Agreed Facts, Mrs Solera Marquez accepted that on more than one occasion, including on 22 October 2022, she used Pupil B as a way to get Pupil A to comply with instructions by using Pupil B to chase and scare Pupil A. Mrs Solera Marquez acknowledged that Pupil B was a vulnerable pupil and also non-verbal, and that Pupil B can be a violent pupil who wears a helmet to protect [redacted].

The panel also considered the evidence of those individuals who were interviewed as part of the School's investigation. The panel found that there was evidence that Pupil B had been used as a way to get Pupil A to comply with instructions by chasing him and/or scaring him.

The member of the Brent special school nursing team who originally reported the allegation told the interviewer that on 22 October 2020, Mrs Solera Marquez had asked a teaching assistant to bring Pupil B to the medical room with Pupil A, who was being weighed. The nurse stated that Mrs Solera Marquez told her that "[Pupil A] was afraid of [Pupil B] that was brought to chase him, but that she was trying to encourage them to be friends. [Pupil A] may have been scared by that student". The teaching assistant in question told the interviewer that bringing Pupil B inside was an attempt to calm her down. Mrs Solera Marquez told the interviewer that she did "not think there is anything wrong" with getting Pupil B to chase Pupil A because they were friends. This was not however corroborated by any of the other interviewees.

The panel determined that this was not an isolated incident and that the use of Pupil B as a way to get Pupil A to comply with instructions had happened on more than one occasion. In addition to Mrs Solera Marquez's admission in the Statement of Agreed Facts, the panel found that Mrs Solera Marquez's comment in her interview that the use of Pupil B was "part of a strategy, as something that works" indicated that this had happened on more than one occasion.

On balance the panel found the facts proven in relation to allegation 1 (b).

#### 2. Your conduct at allegation 1a above was done without parental permission.

The panel then considered allegation 2. The allegation was admitted and was supported by evidence presented to the panel within the bundle.

In the Statement of Agreed Facts, Mrs Solera Marquez accepted that she was not given permission by Pupil A's parents to use scissors as a behavioural management technique.

The panel also considered the evidence of those individuals who were interviewed as part of the School's investigation. The panel found that there was evidence that Mrs Solera Marquez's conduct in respect of Pupil A was done without parental permission. The School Deputy Safeguarding Lead told the interviewer that she had received verbal

permission to trim Pupil A's hair from Pupil A's mother but not to use them as a behaviour management technique. There was no evidence in the bundle which suggested that Pupil A's parents had given permission for Mrs Solera Marquez to use Pupil B as a way to get Pupil A to comply with instructions.

On balance the panel found the facts proven in relation to allegation 2.

# 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".

#### **Unprofessional Conduct**

The panel was satisfied that the conduct of Mrs Solera Marquez, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mrs Solera Marquez 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
- showing tolerance of and respect for the rights of others

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 Solera Marquez fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Mrs Solera Marquez's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that none of these offences were relevant.

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

#### **Disrepute**

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 panel also considered whether Mrs Solera Marquez's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that none of these offences were relevant.

The panel noted that the Advice is not intended to be exhaustive and there may be other behaviours that panels consider to be "conduct that may bring the profession into disrepute". The panel considered that Mrs Solera Marquez's actions showed a lack of respect for pupils and a disregard for pupils' well-being, particularly given those pupils are non-verbal and cannot raise any concerns themselves.

The panel considered that Mrs Solera Marquez's conduct could potentially damage the public's perception of a teacher. The panel therefore found that Mrs Solera Marquez's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1 and 2 proved, the panel further found that Mrs Solera Marquez'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mrs Solera Marquez and whether a prohibition order is necessary and proportionate. 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 public interest

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely, the safeguarding and wellbeing of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mrs Solera Marquez, which involved the use of scissors as a behaviour management technique on a vulnerable non-verbal child (Pupil A) and the use of another child (Pupil B) to intimidate Pupil A into following instructions, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils.

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

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 Solera Marquez was outside that which could reasonably be tolerated.

Whilst there is evidence that Mrs Solera Marquez had ability as an educator, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mrs Solera Marquez in the profession, since her behaviour fundamentally breached the standard of conduct expected of a teacher.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

#### The Advice

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;

failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of 'Keeping Children Safe In Education')

violation of the rights of pupils;

#### <u>Mitigation</u>

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher/ whether there were mitigating circumstances.

The panel considered the mitigating factors contained in the statement provided by Mrs Solera Marquez to the School disciplinary hearing, including [redacted] the lack of support which she claimed she had received from the School. The panel also noted the comments made by two of the teaching assistants in their interviews that Mrs Solera Marquez appeared to be [redacted] as a result of the Covid-19 pandemic. The panel found that the [redacted] in the bundle meant that it could not place much weight on this as a mitigating factor.

The panel acknowledged that Mrs Solera Marquez had apologised and expressed her regret for her actions and the way her actions had impacted on others. However, the panel found that Mrs Solera Marquez lacked full insight into her conduct and failed to understand the seriousness of her actions, particularly from a safeguarding perspective. The panel were concerned by Mrs Solera Marquez's decision to call Pupil A and Pupil B's parents after the decision had been taken to dismiss her to explain her version of events. The panel considered this to be a serious lack of judgment.

The panel found that Mrs Solera Marquez did have a previous good teaching record and was of good character. Mrs Solera Marquez had not been subject to any disciplinary proceedings.

The panel considered two documents dated 15 July 2019 and 13 September 2019. The panel considered the July 2019 reference from the Headteacher of a previous school which described Mrs Solera Marquez as an "excellent supply teacher" and the September 2019 reference from Mrs Solera Marquez's previous line manager which rated her as 'Good' or 'Excellent' on all of the teaching criteria.

#### **Proportionality**

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 Solera Marquez 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

Solera Marquez. The facts of the allegations, particularly the fact that they involved vulnerable and non-verbal pupils, and Mrs Solera Marquez's lack of understanding of her actions were a significant factor in forming that opinion. 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, 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 Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. The panel did not find that Mrs Solera Marquez had been engaged in such conduct.

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. Whilst Mrs Solera Marquez had not engaged in any of these behaviours, the panel noted that the list was not exhaustive. The panel considered that in light of the serious nature of her actions and her lack of understanding of the consequences of her actions, the review period should be longer than 2 years.

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 after 4 years. The panel considered that this would be a sufficient period of time for Mrs Solera Marquez to reflect on her actions and to be able to demonstrate that she understood the safeguarding concerns which led to her prohibition.

## 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 Maria Solera Marquez should be the subject of a prohibition order, with a review period of four years.

In particular, the panel has found that Mrs Maria Solera Marquez 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
- showing tolerance of and respect for the rights of others

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 Solera Marquez fell significantly short of the standard of behaviour expected of a teacher."

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 Maria Solera Marquez, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "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, "The panel acknowledged that Mrs Solera Marquez had apologised and expressed her regret for her actions and the way her actions had impacted on others. However, the panel found that Mrs Solera Marquez lacked full insight into her conduct and failed to understand the seriousness of her actions, particularly from a safeguarding perspective." In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts at risk the

future wellbeing 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, "The panel considered that Mrs Solera Marquez's conduct could potentially damage the public's perception of a teacher. The panel therefore found that Mrs Solera Marquez's actions constituted conduct that may bring the profession into disrepute."

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 Maria Solera Marquez herself. The panel comment "The panel found that Mrs Solera Marquez did have a previous good teaching record and was of good character. Mrs Solera Marquez had not been subject to any disciplinary proceedings."

A prohibition order would prevent Mrs Marquez 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, "The panel decided that the public interest considerations outweighed the interests of Mrs Solera Marquez. The facts of the allegations, particularly the fact that they involved vulnerable and non-verbal pupils, and Mrs Solera Marquez's lack of understanding of her actions were a significant factor in forming that opinion.""

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Marquez 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 that in light of the serious nature of her actions and her lack of understanding of the consequences of her actions, the review period should be longer than 2 years."

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 after 4 years. The panel considered that this would be a sufficient period of time for Mrs Solera Marquez to reflect on her actions and to be able to demonstrate that she understood the safeguarding concerns which led to her prohibition."

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, factors mean that allowing a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the nature of the misconduct, the vulnerability of the pupil and the lack of full insight.

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

This means that Mrs Maria Solera Marquez 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 2026, 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 Maria Solera Marquez remains prohibited from teaching indefinitely.

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

Mrs Maria Solera Marquez 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: 10 May 2022

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