



Teaching
Regulation
Agency

Ms Michelle Scarlett: Professional conduct panel outcome

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

March 2022

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	6
Documents	6
Witnesses	7
Decision and reasons	7
Findings of fact	8
Panel's recommendation to the Secretary of State	13
Decision and reasons on behalf of the Secretary of State	16

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

Teacher:	Ms Michelle Scarlett
Teacher ref number:	0951796
Teacher date of birth:	27 September 1978
TRA reference:	13600
Date of determination:	17 March 2022
Former employer:	Ashmole Primary School

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 11 and 15 to 17 March 2022 by way of a virtual hearing, to consider the case of Ms Michelle Scarlett.

The panel members were Ms Laura Flynn (teacher panellist – in the chair), Mr Chris Rushton (lay panellist) and Ms Shabana Robertson (lay panellist).

The legal adviser to the panel was Ms Abigail Trencher of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Ben Chapman, of Counsel, on behalf of Browne Jacobson LLP solicitors.

Ms Scarlett was present and was not represented.

The hearing took place by way of a virtual hearing in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 6 January 2022.

It was alleged that Ms Scarlett was guilty of conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Ashmole Primary School between 1 September 2014 and 29 April 2016:

1. On one or more occasions, including on or around 11 March 2015, she:
 - a. slapped Child A and/or Child B;
 - b. caused Individual A to cause, and/or permitted and/or failed to prevent Individual A from causing, significant physical and/or emotional harm to Child A and/or Child B.
2. Following an incident or around 11 March 2015, she;
 - a. failed to seek or obtain medical assistance for Child A and/or Child B, and/or ensure their injuries were appropriately treated in circumstances where such assistance and/or treatment was warranted;
 - b. [redacted]
 - i. [redacted]
 - ii. [redacted]

Ms Scarlett accepted the facts of the allegations, save for 2.a, but denied allegation 1.b in part; 2.a; and 2.b i. She also denied that that the allegations amounted to conduct that may bring the profession into disrepute.

Preliminary applications

Application to admit additional documents

The panel considered a preliminary application from the presenting officer for the panel to waive the period of time set out in paragraph 4.21 of the Teacher misconduct: disciplinary procedures for the teaching profession April 2018 (the “Procedures”), in that whilst documents had been exchanged between the TRA and the teacher within the time required under paragraph 4.20 those documents had not been sent to the panel members or the legal adviser within the time required under paragraph 4.21. The panel heard representations from the presenting officer in respect of the application. The panel

considered the documents were relevant. Accordingly, the panel exercised its discretion to waive the time period and the documents were added to the bundle.

Application for the hearing to be heard in private

The panel considered an application from the presenting officer that the hearing should be heard in private.

The panel heard submissions from the presenting officer and the teacher on the application before reaching its decision.

The panel considered the representations and the need to balance the public interest in holding all, or part, of the hearing in public against the need to protect the interests of children and vulnerable witnesses. The panel took into account that part of the evidence relating to the allegations had already been the subject of criminal proceedings. The panel was not aware, however, of what steps, if any, might have been taken during those criminal proceedings to protect the identity of children and vulnerable witnesses. The panel was also not persuaded that the occurrence of previous judicial proceedings related to this case should justify, of itself, disclosure of information in the course of this hearing. In particular, the panel was concerned that nothing was done to facilitate the identification of children and vulnerable witnesses. The panel did not want to risk reviving interest in events in their past which may have an adverse impact upon them.

The panel also has to ensure that during the hearing it adhered to the terms of a judicial order which required evidence and submissions contained in [redacted] be heard in private session. In addition the evidence that came from sources other than the [redacted] still posed significant risk of identifying children and vulnerable witnesses. Overall the panel considered it would be impossible to for any meaningful part of the hearing to be heard in public. The panel therefore granted the application. The panel considered that the need to protect the interests of children and vulnerable adults in this case was such that it was necessary to hold the hearing in private which would include announcing the decision in public. This was agreed with both the panel and the teacher under paragraph 1.4 of the Procedures. The panel considered if part of the decision could be read out, with parts redacted. It determined that the level of redactions necessary would make any meaningful announcement impossible, particularly as the panel considered part of the allegations themselves would need redacting.

Application to amend allegations

The presenting officer made an application to amend allegation 1.b. to change the wording from :

“caused and/or permitted and/or failed to prevent Individual A from causing significant physical and/or emotional harm to Child A and/or Child B”

to:

“caused *Individual A to cause*, and/or permitted and/or failed to prevent Individual A from causing, significant physical and/or emotional harm to Child A and/or Child B.”

The panel noted that Ms Scarlett did not object to the proposed changes to the allegations.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the Procedures. The panel was satisfied that the proposed amendment would not change the severity, nature or scope of the allegations and that the allegations would remain substantially the same. The panel was of the view the change would simplify and clarify the wording of the allegation.

Accordingly, the panel granted the application and considered the amended allegations, which are set out above.

Summary of evidence

Documents

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

- Section 1: Chronology and anonymised pupil list – pages 2 to 4
- Section 2: Notice of referral response, notice of proceedings and response – pages 6 to 26
- Section 3: Teaching Regulation Agency witness statements – pages 28 to 42
- Section 4: Teaching Regulation Agency documents – pages 44 to 374
- Section 5: Teacher documents – pages 376 to 402

In addition, the panel agreed to waive the time period required to include the following:

- Additional Teacher documents – pages 404 to 494
- Bundle B: [redacted] - pages 1 to 261

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 should be admitted.

Witnesses

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

- Individual D [redacted]
- Individual E [redacted]

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision. Ms Scarlett chose not to give evidence during the hearing. She instead asked during submissions the panel to consider the responses and statements she had made as part of the criminal proceedings, the school's disciplinary procedure and [redacted]

Ms Scarlett was employed as a class teacher at [redacted] Primary School ('the School') from September 2012 to August 2014. Ms Scarlett commenced employment as a class teacher at Ashmole Primary School from 1 September 2014.

Child A and Child B, attended [redacted] Primary School as pupils at the relevant time.

On 11 March 2015, an incident took place [redacted], during which Child A and Child B were allegedly hit by Ms Scarlett. Following this incident, Individual A poured boiling water on Child A's shoulder and Child B's stomach, causing injury. It is alleged that Ms Scarlett, who was not in the room at the time of the incident, failed to take steps to prevent the injury and failed to take steps to address the injuries suffered and seek medical attention for Child A and Child B.

[redacted]

On 18 March 2015, Child A and Child B made disclosures to staff at the School. Ms Scarlett was arrested for cruelty to persons under sixteen, contrary to section 1 of the Children and Young Persons Act 1933.

On 19 March 2015, Child A and Child B attended hospital under the care of social services. Individual A, [redacted], surrendered to custody at Brixton police station and was arrested for grievous bodily harm with intent, contrary to section 20 of the Offences Against the Person Act 1861, and cruelty to persons under sixteen.

[redacted]

[redacted]

Ms Scarlett was dismissed from Ashmole Primary School on 29 April 2016 and appealed against her dismissal. On 22 June 2016, Ms Scarlett attended her appeal hearing and was unsuccessful.

[redacted]

On 24 April 2018, the Crown Court case against Ms Scarlett was heard. The CPS offered no evidence on three counts and the jury found Ms Scarlett not guilty on a further two counts.

On 11 July 2018, Individual A raised a defence of insanity and was deemed unfit to plead. Individual A was found to have committed acts of grievous bodily harm with intent and cruelty to persons under sixteen.

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:

- 1. On one or more occasions, including on or around 11 March 2015, you:**
 - a. slapped Child A and/or Child B;**
 - b. caused Individual A to cause, and/or permitted and/or failed to prevent Individual A from causing, significant physical and/or emotional harm to Child A and/or Child B.**

Ms Scarlett admitted allegation 1.a. in that she had slapped Child A and Child B on 11 March 2015. On that day, [redacted]. The panel noted that in her appeal against dismissal, her NUT representative stated: *“Michelle made wrong decisions [redacted]. She became angry on 11 March and shouted at and slapped [redacted].”*

The panel considered the detailed and consistent accounts given by Child A and Child B in the course of the criminal proceedings and [redacted].

On the weight of evidence before the panel, particularly the evidence disclosed from the [redacted], the panel concluded that Ms Scarlett had hit the children on a number of occasions with sustained severity. The panel noted that this was sometimes described as physical chastisement but the panel was uncomfortable with that expression. From the evidence before the panel it was of the opinion Ms Scarlett’s actions were a physical response to her emotional state and a loss of control and exceeded what could be deemed to be acceptable physical chastisement.

Allegation 1.b. was partially admitted. Ms Scarlett did not accept she had caused or permitted Individual A to cause significant physical and emotional harm to Child A and Child B. She did accept, however, that she had failed to prevent Individual A from causing significant physical and emotional harm to Child A and Child B.

The panel noted interviews that had taken place with the Police. It took into account the evidence that confirmed Ms Scarlett was in [redacted] at the time of the incident on 11 March 2015 involving Individual A. During the disciplinary investigation meeting conducted by the school she stated: "*I was in [redacted] and the incident happened [redacted]*". However in other interviews she said that she was outside. There was inconsistent evidence on where exactly Ms Scarlett was at the time the children were scolded. The panel was satisfied, on balance, that she was close enough to the incident to have heard the children's screams and, therefore, to have been aware of and prevented harm to the children.

The panel was satisfied on the evidence that there were clear indicators present that should have alerted Ms Scarlett to the possibility that Individual A could cause harm to Child A and B on 11 March 2015. He had previously physically harmed Child B in front of Ms Scarlett. [redacted]. She was clearly very upset on 11 March 2015, due to the reported behaviour of Child B. Ms Scarlett had slapped both children and was, by her own admission, very upset.

Amidst this, she was aware Child A and Child B were [redacted] with Individual A. Whilst the evidence on the events of the 11 March 2015 is compelling, the panel grappled with whether there was sufficient evidence from which it could conclude, on a balance of probability, that Ms Scarlett had caused Individual A to cause significant physical and/or emotional harm to Child A and/or Child B. The panel considered that this should require some evidence that she had actively generated the incident. Overall, on balance, the panel was not satisfied such a conclusion could be reached on the evidence before it.

The panel is satisfied, however, that the evidence supports its conclusion that Ms Scarlett permitted and failed to prevent Individual A from causing significant physical and emotional harm to Child A and Child B.

Clear indicators that Individual A had a propensity to physically harm Child A and Child B could be found in the evidence. The [redacted]. The panel was satisfied Ms Scarlett had an awareness that Individual A had a tendency to physically harm Child A and Child B. In light of this, and the circumstances leading up to the incident on 11 March 2015, the panel considers she should have been alive to the likelihood Individual A was going to cause significant harm to Child A and Child B. The evidence is clear that she knew Individual A was [redacted] with Child A and Child B, and that she had heard them scream. The medical evidence provided on the extent of the injuries suffered by Child A and Child B was disturbing. The panel considers there can be no doubt that Child A and Child B must have been in agony and the extent and tone of their screams should have

alerted her to the seriousness of the situation. Ms Scarlett should have taken immediate action to have stopped the actions of Individual A. She did not do so, and by such omission, at that critical time, she both permitted and failed to prevent the significant physical and emotional harm both Child A and Child B suffered.

The panel has taken into consideration the evidence that Ms Scarlett was suffering with severe stress and was very upset at the time of the incident. Nonetheless, it was her responsibility to protect Child A and Child B from the harm that Individual A inflicted upon them. The panel was satisfied that she knew at the time of what Individual A was capable, and did nothing to stop it.

The panel therefore found allegation 1 proven.

2. Following an incident or around 11 March 2015, you;

- a. failed to seek or obtain medical assistance for Child A and/or Child B, and/or ensure their injuries were appropriately treated in circumstances where such assistance and/or treatment was warranted;**

Ms Scarlett did not admit allegation 2.a. In her submissions she confirmed this was on the basis that she had been notified by Individual A that he had dealt with it. The panel did not consider Ms Scarlett's actions, [redacted] and when there was clear evidence he had caused the injuries, was neither rational nor plausible. The evidence from her interview with the Police on 19 March 2015 strongly indicated that Ms Scarlett saw Child A and Child B soon after the harm was inflicted on them and that she should have been aware of the severity of the wounds and the need to seek medical attention.

The panel considered that even if, as Ms Scarlett maintained, she did not see the wound prior to Individual A dressing them, the panel finds it inconceivable that she wouldn't have checked on the wounds at a later time. Instead, her evidence is that she did nothing to check on the wounds at any time during for the following week.

In the panel's opinion Ms Scarlett should have investigated the incident. She should have asked questions of Child A and Child B to ascertain what had happened to cause the injuries they suffered and she should have sought to ascertain the extent of the injuries. If, as Ms Scarlett maintains, she did not want to inspect Child A and Child B, due to historic issues in her past, she should, at the very least, have taken them to a medical expert for confirmation that correct and sufficient treatment had been given to the wounds by Individual A. The evidence shows that both Child A and Child B had considerable sized dressings on their wounds. The panel found it implausible that Ms Scarlett did not have any awareness of the severity of Child A and Child's B injuries.

Instead the panel considers Ms Scarlett chose not to take any action to seek medical attention for the injuries suffered to Child A and Child B. The reasons for her failure to do so are unclear. It could be due to a fear [redacted], or because she did not wish to upset

Individual A. In any event, Ms Scarlett failed to take any action in respect of Child A and Child B's injuries. They only received professional treatment after their disclosure to the school. This was despite a period of seven days having lapsed, [redacted].

b. acted dishonestly, in that [redacted];

i. in an attempt to prevent the true events of 11 March 2015 and/or the injury/harm suffered by Child A and/or Child B from coming to light;

ii. [Redacted]

In respect of allegation 2.b., Ms Scarlett admits to the stem of this allegation in that [redacted]. Ms Scarlet does not accept that she did this to prevent the true events of 11 March 2015 and/or the injury/harm suffered by Child A and/or Child B coming to light.

The panel accepted that Ms Scarlett lied in informing the school that Child A and Child B had [redacted]. The panel notes that Ms Scarlett compounded this lie when [redacted].

As to the reasons for the lie, the panel is satisfied, on the balance of probability, that the reason Ms Scarlett [redacted] was to prevent the true events of 11 March 2015 coming to light. The panel finds Ms Scarlett's account of why [redacted] implausible and inconsistent. By way of example, during the school's disciplinary investigation and the [redacted] she gave a variety of different reasons. These included: [redacted]. The panel found Ms Scarlett's explanations lacked consistency and logic.

[redacted]

The panel was satisfied that the only plausible explanation was that Ms Scarlett wanted to prevent the true events of 11 March 2015 coming to light.

In relation to allegation 2.b.ii, this was accepted by Ms Scarlett. Irrespective of her admission the panel was satisfied, on the balance of all the evidence, [redacted].

For the reasons set out above, the panel find all the allegations proven.

Findings as to 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 conduct that may bring the profession into disrepute.

The panel considered whether Ms Scarlett conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found the offences of violence; serious dishonesty; child cruelty and/or neglect were relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

Of key concern to the panel was Ms Scarlett's attitude to the use of physical force and her failure to protect Child A and Child B from the physical and emotional harm they sustained at the hands of Individual A.

There was substantial evidence before the panel that Ms Scarlett had on a number of occasions physically harmed Child A and Child B. She accepts in evidence that she did so when frustrated. On balance the panel considered that the use by Ms Scarlett of physical force on Child A and Child B went far beyond what might be considered acceptable and amounted to abuse. The panel was not satisfied from the evidence that Ms Scarlett accepted that the level of physical force she had used, on occasion, towards Child A and Child B was excessive and unacceptable. Instead, in the evidence she appears to blame her actions on external factors, such as stress, pressures of work, and concerns for the children's behaviour.

The panel considers that such conduct and attitude amounts to conduct that may bring the profession into disrepute.

The panel understands that caring and working with children can be frustrating, but considers that the public expects, and trusts, that all teachers, as professionals, will be able to manage their frustrations and other emotions positively and constructively, and find alternative solutions to address behavioural issues other than physical force.

The public also expects teachers to be at the forefront of safeguarding. Teachers need to be able to spot signs of abuse and concerns with children and report them. Teachers act *in locus parentis* and are expected to ensure their pupils are protected from harm. In the case before the panel it is clear that Ms Scarlett failed to adequately safeguard Child A and Child B. She did not protect them from the risks and dangers posed by Individual A; she did not take steps to protect them from the harm he inflicted upon them on 11 March 2015. Furthermore, in [redacted], for dishonest reasons, Ms Scarlett actively prevented Child A and Child B from accessing effective safeguarding at the school.

It was clear from the evidence provided by the school that Ms Scarlett understood what was expected of her as a teacher in relation to her safeguarding duties. Ms Scarlett explained the extent of her duties to the school during the disciplinary process. Despite this, she failed to implement safeguarding in respect of Child A and Child B. This would, in the panel's opinion, fall far below the standard the public would expect of her as a teacher.

Finally, the panel considers Ms Scarlett's dishonesty as to the reasons [redacted] amounts to conduct that may bring the profession into disrepute. It was not an insignificant lie. It was a lie given to cover up a serious incident and to protect herself. [redacted].

Accordingly, having found the facts of allegations 1.a, 1.b, 2.a, 2.b(i) and 2.b(ii) proven, and for the reasons set out above, the panel found that Ms Scarlett's conduct amounted to conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of 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.

The panel were aware that 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 a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Ms Scarlett, which involved slapping a child, permitting/failing to prevent an individual from causing physical and emotional harm to children, acting dishonestly and failing to obtain medical assistance for children, there was a strong public interest consideration in respect of the protection of pupils.

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

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 Ms Scarlett.

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 Ms Scarlett. 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 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;
- failure to act on evidence that indicated a child's welfare may have been at risk;
- dishonesty , including the deliberate concealment of their actions ;
- collusion of concealment including lying to prevent the identification of wrongdoing.

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. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

Ms Scarlett put forward no mitigation in person during the hearing relying solely upon what was contained in the bundle of documents before the panel.

The panel having reviewed the evidence before it was not satisfied that it could be said that Ms Scarlett's actions were not deliberate.

There was evidence to suggest that Ms Scarlett may have been acting at times under heightened stress, but the panel was satisfied she was not acting under extreme duress.

There was evidence submitted to attest to Ms Scarlett's previous history as a teacher. However none presented either individually or cumulatively that reached the threshold necessary to amount to there being "an exceptionally strong" public interest in her being able to continue to teach.

There was evidence that since the incident, Ms Scarlett had worked [redacted].

Further, Ms Scarlett had been a voluntary workshop leader at [redacted]; teaching and leading crochet workshops for women that have been affected by the criminal justice system. [redacted].

Ms Scarlett had also independently sourced, enrolled and completed various personal development courses [redacted]

During the hearing, however, Ms Scarlett failed to convey to the panel how any of these measures had provided her with an understanding of what had caused her past conduct and how she would prevent it from occurring in the future.

In addition, Ms Scarlett failed to persuade the panel that she truly grasped and understood her culpability in the events giving rise to the allegations. The panel was struck by frequent references made by Ms Scarlett in the documentation to external factors. The few comments she did make in person to the panel included reference to a minor injury Child A had suffered whilst in the care of [redacted], seeking to compare that, and the apparent lack of consequences suffered by [redacted], to her conduct. The panel found it inconceivable that the two incidences could be deemed comparable. It illustrated to the panel that Ms Scarlet did not fully accept the extreme seriousness of the harm Child A and Child B had suffered on 11 March 2015 and her responsibility for it.

The panel was not convinced by the level and extent of Ms Scarlett's remorse or insight into her actions. It did consider this may be due to Ms Scarlett's apparent reluctance to engage with the process and discuss matters with the panel that were clearly emotionally difficult for her. Nonetheless, the absence of reassurance on these two points meant that the panel had no choice but to conclude there was insufficient remorse or insight.

The panel 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 Ms Scarlett 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 Ms Scarlett. In particular the panel concluded that if Ms Scarlett were to return to teaching she would damage the reputation of the profession and pose a safeguarding risk to children. Given the seriousness of the misconduct, which the panel considered to be at the severe end of the spectrum, the panel did not have confidence that she would be able to adequately discharge her safeguarding duties and obligations. The panel was persuaded that if the public were to learn that Ms Scarlett had been allowed to continue to teach in light of the proven allegations there would be considerable damage to the reputation of the profession.

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 behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include child cruelty and/or neglect. The panel was satisfied that those behaviours were present in the misconduct giving rise to the allegations. The panel has also concluded that they were at the severe end of the spectrum.

In addition, the panel considered the time it had taken for the allegations against Ms Scarlett to be put before a professional conduct panel. The panel accepted the period of seven years was considerable and regrettable but recognised that the delay was caused in part by the need to wait for the outcome of connected judicial proceedings. The panel, however, considered this time should have provided Ms Scarlett with an opportunity for reflection. Unfortunately Ms Scarlett did not appear to take advantage of this. Consequently, if the passage of seven years had not enabled Ms Scarlett to satisfy the panel of her remorse and insight, the panel did not believe that a longer period would lead to a different outcome.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provision for a 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 Ms Michelle Scarlett should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Ms Scarlett is in breach of the following standards:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- failure to act on evidence that indicated a child's welfare may have been at risk;

- dishonesty , including the deliberate concealment of their actions;
- collusion of concealment including lying to prevent the identification of wrongdoing.

The panel finds that the conduct of Ms Scarlett fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include slapping a child, permitting/failing to prevent an individual from causing harm to children, dishonesty and failing to obtain medical assistance for children.

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 Ms Scarlett, 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. The panel has observed “It was clear from the evidence provided by the school that Ms Scarlett understood what was expected of her as a teacher in relation to her safeguarding duties. Ms Scarlett explained the extent of her duties to the school during the disciplinary process. Despite this, she failed to implement safeguarding in respect of Child A and Child B. This would, in the panel’s opinion, fall far below the standard the public would expect of her as a teacher.”

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, set out as follows, “The panel was not convinced by the level and extent of Ms Scarlett’s remorse or insight into her actions. It did consider this may be due to Ms Scarlett’s apparent reluctance to engage with the process and discuss matters with the panel that were clearly emotionally difficult for her. Nonetheless, the absence of reassurance on these two points meant that the panel had no choice but to conclude there was insufficient remorse or insight.” In my judgement, the lack of full insight and remorse 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, "In the light of the panel's findings against Ms Scarlett, which involved slapping a child, permitting/failing to prevent an individual from causing physical and emotional harm to children, acting dishonestly and failing to obtain medical assistance for children, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Scarlett was not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of misconduct involving harm to children 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 Ms Scarlett herself and the panel comment "There was evidence submitted to attest to Ms Scarlett's previous history as a teacher. However none presented either individually or cumulatively that reached the threshold necessary to amount to there being "an exceptionally strong" public interest in her being able to continue to teach."

A prohibition order would prevent Ms Scarlett from continuing that work. A prohibition order 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. The panel has said, "Ms Scarlett failed to persuade the panel that she truly grasped and understood her culpability in the events giving rise to the allegations."

I have also placed considerable weight on the finding of the panel related to safeguarding responsibilities "The public also expects teachers to be at the forefront of safeguarding. Teachers need to be able to spot signs of abuse and concerns with children and report them. Teachers act *in locus parentis* and are expected to ensure their pupils are protected from harm. In the case before the panel it is clear that Ms Scarlett failed to adequately safeguard Child A and Child B. She did not protect them from the risks and

dangers posed by Individual A; she did not take steps to protect them from the harm he inflicted upon them on 11 March 2015. Furthermore, in [redacted], for dishonest reasons, Ms Scarlett actively prevented Child A and Child B from accessing effective safeguarding at the school.”

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Scarlett 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 remorse and 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 that no provision should be made for a review period.

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include child cruelty and/or neglect. The panel was satisfied that those behaviours were present in the misconduct giving rise to the allegations. The panel has also concluded that they were at the severe end of the spectrum.”

I have considered whether not allowing a 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 review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the lack of insight and remorse, and the failure to safeguard children.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Ms Michelle Scarlett is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. Furthermore, in view of the seriousness of the allegations found proved against her, I have decided that Ms Scarlett shall not be entitled to apply for restoration of her eligibility to teach.

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

Ms Michelle Scarlett 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 black ink, appearing to read 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 21 March 2022

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