



Teaching  
Regulation  
Agency

# **Mrs Barbara Phillips: Professional conduct panel outcome**

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

**June 2022**

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

**Teacher:** Mrs Barbara Jo Phillips  
**TRA reference:** 18817  
**Date of determination:** 6 June 2022  
**Former employer:** Chaigley School, Warrington

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 15 December 2021, via Microsoft Teams, to consider the case of Mrs Barbara Phillips. Due to insufficient time in the original three-day listing, the panel and parties reconvened for Day 4 on 6 June 2022, again by Microsoft Teams.

The panel members were Mr Clive Ruddle (lay panellist – in the chair), Mr David Raff (lay panellist) and Ms Jasmin Choudhury (teacher panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the TRA was Miss Sherelle Appleby of Browne Jacobson LLP.

Mrs Phillips was present and was represented by Mr John McNally of counsel.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 23 September 2021.

It was alleged that Mrs Barbara Phillips was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Chaigley School:

1. She engaged in inappropriate and/or unprofessional behaviour including by:
  - a. on or around 22<sup>nd</sup> March 2019, stating "I'm not staying in with him here" or words to that effect in relation to Pupil C;
  - b. referring to pupil(s) as "idiot" and / or "little shit" on one occasion or more;
  - c. sending a text message to the parent / guardian of a pupil stating "Sacked. Thanks" or words to that effect;
  - d. stating on Facebook that "if [Pupil C] isn't excluded for at least 3 days, I will fuck off home!!! 6 smashed windows and assaulting staf! [sic]" or words to that effect.
2. On or around 1<sup>st</sup> July 2019, she failed to take appropriate action and / or ensure appropriate action was taken to safeguard pupils including by:
  - a. taking pupils off the School premises without obtaining parental permission;
  - b. taking pupils off the School premises without informing the School as to where you were going;
  - c. failing to ensure that pupils wore helmets when using a quadbike;
  - d. failing to carry out a risk assessment regarding taking pupils off the School premises and / or pupils riding quadbikes without helmets.
3. Her behaviour, as may be found proven:
  - a. at allegation 1(a) above caused Pupil C to suffer distress;
  - b. at allegation 2 above:
    - i. put one or more pupils at an increased risk of harm;
    - ii. resulted in Pupil E sustaining an injury to the area around his eye.

Save for the facts underlying the particulars of allegation at 1c and 1d, all of the allegation was denied, as was unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Preliminary applications**

The panel first considered an application from Miss Appleby to admit one document titled 'Cause for Concern Form (Confidential)', relating to be an alleged incident involving Ms Phillips and unknown pupils from October 2017.

Miss Appleby submitted to the panel that the author of the document, Individual A, was attending to give evidence and could be questioned on the content of the form, which she stated to be relevant to paragraph 2 of the allegation. In particular, the events of 2017 involved concerns regarding Ms Phillips's adherence to safeguarding principles, which were directly relevant to the concerns at paragraph 2.

Mr McNally objected to the document being admitted, on the basis that it was not relevant. He stated that the alleged incident in 2017 was an internal school matter, which the TRA was now attempting to 'translate' into the current proceedings. There was no evidence regarding context as to the events of 2017, and the July 2019 allegation was narrow in its concern and only evidence related to that could be deemed relevant.

The panel also considered an application from Mr McNally to admit a signed witness statement of [REDACTED], dated 25 November 2021. This statement set out the contact that [REDACTED], who is Ms Phillips's solicitor, had with a witness in this case, Individual C and exhibited a number of documents to the same.

Mr McNally submitted that the witness statement was directly relevant to the evidence anticipated to be given by Individual C as, it would appear, she had provided contradictory information to the TRA and then to [REDACTED].

Miss Appleby had no objection to this document being admitted, although her stance did not extend to agreeing to its admission. The TRA was, in effect, neutral on the application.

With regard to the application by the TRA, the panel was not persuaded that an event in October 2017 could properly be considered relevant to a specific incident approaching two years later, in July 2019, as set out at paragraph 2 of the allegation.

There was a significant time gap between the two issues, and that distance was sufficient to diminish any relevance that the October 2017 events may have had to the allegation.

The panel did not, therefore, allow the TRA's application.

In respect of Mr McNally's application, the panel was content that [REDACTED] evidence was relevant to the potential questioning of Individual C, which could impact on her credibility. It also noted the TRA's lack of objection to this statement being admitted.

In the panel's view, there was no unfairness to [REDACTED] statement being admitted and, indeed, it was appropriate for it to be so that an important witness could be questioned on all of the available facts relevant to her evidence.

## Summary of evidence

### Documents

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

Section 1: Notice of Proceedings – pages 2 to 8

Section 2: Cover email – page 10

Section 3: Teaching Regulation Agency documents – pages 12 to 112

Section 4: Teacher documents – pages 114 to 264.

In addition, the panel agreed to accept the witness statement of [REDACTED] as pages 265 to 281.

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

### Witnesses

The panel heard oral evidence from:

- Individual A, [REDACTED] at the School;
- Individual B, [REDACTED];
- Individual C, [REDACTED];
- Individual D, [REDACTED];
- Barbara Phillips; and
- Individual E.

The first four witnesses were called by the TRA, and the latter two on behalf of Mrs Phillips.

## Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Mrs Phillips had been employed as a teacher at Chaigley School ('the School') since April 2017. Pupils at the School had a social, emotional and mental health difficulties ('SEMH'), which often led to episodes of violence on staff.

In March 2019, Pupil C was violent towards other pupils and staff, including Mrs Phillips. Pupil C was not excluded from the School and, in the days following the incident, Mrs Phillips made comments about Pupil C, both verbally within the School, and on Facebook.

In July 2019, Mrs Phillips took four pupils off the School premises, to take part in a quad biking activity. It was later reported to the School that the pupils did not wear helmets during the activity, and one had suffered an injury.

Following an investigation into the above, other incidents of Mrs Phillips making comments to pupils were raised and she was dismissed by the School in October 2019.

## Findings of fact

The findings of fact are as follows:

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

### **1. You engaged in inappropriate and/or unprofessional behaviour including by:**

#### **a. on or around 22<sup>nd</sup> March 2019, stating "I'm not staying in with him here" or words to that effect in relation to Pupil C**

The panel first heard evidence on this in particular of allegation from Individual A, [REDACTED] of the School (at the relevant time, Individual A was [REDACTED]).

Individual A explained to the panel that the School was a difficult place to work in due to the resourcing, staffing and pupils. She confirmed that, in terms of the schooling system, the pupils were effectively at the end of the "educational line". As a result, Individual A accepted that a particular sort of teacher was needed to teach there. She considered a teacher would need patience, courage and fortitude but accepted that, even with those strengths, it was still a difficult environment.

Individual A confirmed to the panel that some of the pupils could act in an 'unexplained and unpredictable' manner although not necessarily on a regular basis. She also

explained that, in part due to the pupils' behaviour, the exterior of the School would be locked during the day to ensure that the pupils remained in the school.

In respect of the School's environment as a whole, Individual A explained to the panel that there was a pastoral team in place, as well as an external person who would help with the mental health of staff. She described the School as having an "open door policy" although did also accept that in or around mid-2019 staff had raised concerns regarding the School environment directly to their unions. She denied that this was effectively a "warning sign" to her that the School needed to ensure that there was a need for additional support to be provided to staff.

Individual A accepted that staff could, and would, let off steam in the staff room and that they needed to sound off to each other, but also needed to remain professional. She also acknowledged that staff would contact each other via social media, but also stated that any conversations again must remain professional.

Individual A was cross examined in relation to a social media post, made by another teacher, that included highly explicit language being used, and was referenced by a School employee as "*next year's leavers' song???*" On questioning, Individual A explained that she could not remember whether there any disciplinary proceedings brought against any staff employees. Similarly, she was unable to recall if any employees were suspended or dismissed and, further, told the panel that she did not know how many employees she had suspended or dismissed whilst in the role of [REDACTED] (acting or otherwise) at the School.

Individual A accepted in live evidence that pupils did not always necessarily tell the truth, and that it was never appropriate for staff to deliberately mislead people.

In respect of the incident on or around 22 March 2019, Individual A explained to the panel that there had been an episode of violence from Pupil C, which had included him damaging School property. She said that Mrs Phillips was involved in de-escalating the situation.

In the day or so after the incident, a staff member approached Individual A and stated that, in the dining room, Mrs Phillips had made a comment along the lines of "*I'm not staying in with him here*" with regard to Pupil C. It was reported to Individual A that Pupil C was visibly upset.

As far as Individual A could remember, she assumed that she had spoken to Pupil C following this report and thought she would have documented this discussion. In subsequent questioning Individual A stated that she did not speak to the pupil.

The panel next heard evidence on this allegation from Individual D. Individual D explained to the panel that in March 2019, she was in the dining room near the counter and heard Mrs Phillips say words to the effect of "*I'm not staying in with him here*".



Individual D stated that this had been said loudly in a dramatic fashion by Mrs Phillips, who was approximately two to three metres away from her.

Individual D told the panel that Pupil C was sat at the table and, in Individual D's view, was "saddened" by it. She interpreted this from a 'sad look' on the pupil's face and that the pupil left the dining room shortly after the comment had been made.

Individual D, in cross examination, accepted that Pupil C was a difficult pupil but that she was unaware of any recent incident that he had been involved in. She accepted that it was possible that other pupils made a comment to Pupil C, which had caused him to leave the dining room.

In total, Individual D estimated that she was in the dining room for approximately five minutes as she had sufficient time to check off children. She was unable to confirm to the panel if anybody else had heard Mrs Phillips' comment although she did hear another staff member say "it was a disgrace". Individual D was, however, unsure as to what that comment was said in relation to.

Individual D stated to the panel that Mrs Phillips was good with difficult children and was able to calm pupils down and was very caring. She explained that Mrs Phillips could de-escalate a situation as needed.

The panel next heard live evidence on this matter from Mrs Phillips. She told the panel that Pupil C was significantly "bigger and rougher" than his peers and would "lash out" at staff and pupils. She explained that on 21 March 2019, there had been an incident with Pupil C of extreme violence, during which he caused considerable damage to School property.

As a result of this incident, Mrs Phillips expected Pupil C to be suspended from the School until the end of the week but, instead, saw him attend the school the next day. In Mrs Phillips' view, the majority of staff were "appalled" by him not being suspended. Mrs Phillips accepted that some displays of violence from pupils were to be expected as a method of them communicating. However, the incident involving Pupil C on 21 March 2019 was significantly more extreme.

Mrs Phillips, in questioning, accepted that she may have said words similar to those alleged, to her Teaching Assistant, but only in normal conversation to explain why she was leaving the dining hall. She denied that Pupil C would have heard her say the comment. In her view, it would have been no more than a "quiet aside" but that Individual D may have heard her say it due to their proximity to each other.

In the panel's view, the TRA's witnesses on this particular each gave clear and balanced evidence. The panel also noted Ms Phillips' acceptance that she could have said words similar to those alleged, albeit in a different context, and that Individual D may well have heard her.

In the panel's view, it was content that Mrs Phillips had said words to the effect of those alleged. Considering the words were said sufficiently loudly to allow Individual D to hear them, and therefore the risk that other staff or pupils could also do so, the panel also considered that the comment was both not appropriate and not professional.

The panel therefore found this particular proved.

**b. referring to pupil(s) as "idiot" and / or "little shit" on one occasion or more**

The panel first heard live evidence on this matter from Individual B. Individual B confirmed the content of her witness statement and, in live evidence, explained her relationship with Mrs Phillips. She stated that she had no opinion on Mrs Phillips as a person but had "feelings of concern" of her as a teacher. She was told "things" that she just did not like, although she could not expand on these in any particular detail.

In December 2017, Individual B confirmed she completed a Cause for Concern form in respect of Mrs Phillips and that this included reference to Mrs Phillips calling a pupil "an idiot". Individual B explained that she did not know the circumstances as to how this happened but the pupil had reported it to her and had been upset.

Individual B accepted that, at the time, she had not escalated the incident as she felt the management in place did not listen to her. Whilst there may have been an open door policy at the school, which had a very volatile environment, nothing was ever done when concerns were raised.

Individual B also explained to the panel that, on another occasion, she had heard Mrs Phillips refer to a child in Individual B's group as "a little shit". She could not recall exactly when this was said but explained that it took place during lunchtime in the dining room. At the time, staff were chatting amongst themselves and, whilst there was a pupil in the vicinity, Individual B was unsure if that pupil had heard it.

Individual B told the panel that comments unfavourable to pupils would often be made by staff as a method of letting off steam, but only in the confines of the staffroom. This was something that she had done herself. In Individual B's view, there was a cultural issue at the school, although it did ebb and flow depending on staff turnover. She told the panel that there were a huge number of physical assaults by pupils on staff in a working week, and estimated this could be up to 10 per day.

Individual B was adamant that the pupil, who reported the "idiot" comment to her, was telling the truth. She described the pupil as being a "parrot" as he had a tendency to repeat what had been said to him, and wanted to share with her what Mrs Phillips had said.

The panel next heard evidence on this concern from Mrs Phillips. She confirmed to the panel that she had a poor professional relationship with Individual B, and they effectively kept out of each other's way.

In questioning by the panel, Mrs Phillips accepted that the terms "idiot" and "little shit" were words and phrases she had used previously when referring to pupils, as a method to let off steam. However, she was also adamant she did so away from pupils and out of their earshot.

In the panel's view, Individual B was clear in her evidence and was adamant that Mrs Phillips used the term "little shit". Whilst the panel accepted that Individual B and Mrs Phillips may not have had a close working relationship, it did not consider that Individual B had attempted to give anything other than her evidence to the best of her recollection. Overall, the panel determined that she gave consistent and clear evidence.

In addition to this, the culture of the School appeared to be that such terms were used in respect of pupils, and that Mrs Phillips accepted she had used those phrases (or sufficiently similar phrases) albeit, she said, not within the earshot of pupils.

In these circumstances, the panel was persuaded that Mrs Phillips had made reference to a pupil as being a 'little shit'. Whilst it was hearsay, in the circumstances of the particular pupil referenced, the panel was also content that Mrs Phillips had used the term 'idiot' to a pupil, which was clearly inappropriate and unprofessional.

Similarly, use of the term "little shit", when it could potentially be heard by pupils was clearly inappropriate and unprofessional. The panel therefore found this particular proved.

### **c. sending a text message to the parent / guardian of a pupil stating "Sacked. Thanks" or words to that effect**

The panel heard live evidence on this from Individual A who confirmed to the panel that the School worked closely with foster carers, and teachers would often contact the foster carers two or three times per week. She also stated that Mrs Phillips had a close relationship with parents, and foster carers, and described the relationship Mrs Phillips had with Individual C as "very good".

The panel next heard live evidence from Individual C. She explained that in July 2019, Pupil E, [REDACTED], had a mark above his eye and told her that he had gone quad biking the day before with Mrs Phillips. She explained that Pupil E had not stated how he had actually received the mark, which Individual C had not seen the evening before.

Individual C told the panel that, in line with her obligations as a [REDACTED], she had reported the mark on Pupil E to her [REDACTED] and that, subsequently, she had received a text message from Mrs Phillips stating "Sacked! Thanks!".

Individual C told the panel that she had a good relationship with Mrs Phillips and that they would text on a regular, almost daily, basis in respect of Pupil E. She was shocked to receive the relevant message from Mrs Phillips and was unclear if it was for her.

When Individual C subsequently found out that Ms Phillips had been sacked, she told the panel that she was surprised by this. She described Mrs Phillips as always being open, nurturing, and wanting to help. She said that there was never a problem with Mrs Phillips, who would want to go the extra mile to help pupils.

In respect of the text message, Individual C said that she had assumed, from the content of it, that she must have done something wrong to Mrs Phillips. She also explained that she thought it was her fault that Mrs Phillips had been sacked.

In live evidence, Mrs Phillips confirmed that she had sent the message to Individual C. She explained that the two of them had an excellent working relationship but she had not properly thought about the effect that the text might have on Individual C. She told the panel that it was an expression of sarcastic relief but, Mrs Phillips accepted in hindsight, that it was ill judged. She had subsequently offered her apologies to Individual C as no insult was intended at all.

The panel was content, from the text messages it had seen, Individual C's evidence and the acceptance by Mrs Phillips that she had sent the text messages, that this particular was proved factually.

As to the context in which the text messages were sent, the panel did not accept Mrs Phillips' explanation that they were sent with sarcasm, as opposed to her frustration with the situation. The panel's view was corroborated by the description Individual C gave as to how the messages made her feel: in live evidence, she said that she had been 'shocked' and, within her email of 9 August 2021, she had said that the messages made her "*...ill and so confused...*"

There appeared a strong, positive [REDACTED] / teacher relationship between Individual C and Mrs Phillips, with text message exchanges being part of this relationship. However, on this occasion, the panel considered the messages to have crossed a professional boundary, and therefore found them to be inappropriate and unprofessional.

The panel found this particular proved.

**d. stating on Facebook that "if [Pupil C] isn't excluded for at least 3 days, I will fuck off home!!! 6 smashed windows and assaulting staf! [sic]" or words to that effect.**

The panel heard live evidence on this matter from Individual A. She confirmed to the panel, in line with her witness statement, that she had investigated this incident at the

time. Individual A could not recall who notified her of the post but 'assumed' someone had sent it to her.

Individual A was unaware as to how long the Facebook post from Mrs Phillips was posted for, or how wide the group who saw it was, but did think some staff had done so. Individual A stated that the Facebook post was in contravention of the School's Code of Conduct and Social Media Policy.

In questioning, Individual A was asked whether the Facebook comment made by Mrs Phillips would have been ignored had it been said verbally in the staff room. Individual A stated that she could not answer that as it was hypothetical, with the comment actually having been made on a social media website.

In evidence from Mrs Phillips, she accepted making the Facebook post but explained she was upset about Pupil C's behaviour. She told the panel that the only people who could have seen the post were a small number of her Facebook friends. Mrs Phillips told the panel that she thought that she was replying directly to only one person, a current staff member of the school, and when she became aware very shortly afterwards that her post could be seen more widely, albeit by a small number of people, she removed it straightaway. She accepted that in the interim, [REDACTED], a former staff member, who was part of the private Facebook group, had taken a screenshot.

Mrs Phillips told the panel that, from the information contained within the post, no one other than school staff, who were also part of her private Facebook group, would have been able to identify Pupil C.

The panel also had the benefit of reviewing a screenshot of a limited part of the Facebook exchange and noted that the alleged words could be clearly seen. It also noted the name of [REDACTED] being present at the top of the screen.

In the panel's view, it was clear that Mrs Phillips had made the Facebook post. Whilst the panel accepted that there was no evidence that Mrs Phillips expected the post to be disseminated to more than one person, and made efforts to rectify the situation once she became aware the post could be seen by a wider, albeit still a small, number of people, it was still a post that was 'public' to some extent.

Referencing a pupil, and the language used, was not a professional manner in which to behave, nor was it appropriate. The panel therefore found this particular proved.

The panel found the following particulars of the allegation against you not proved, for these reasons:

**2. On or around 1<sup>st</sup> July 2019, you failed to take appropriate action and / or ensure appropriate action was taken to safeguard pupils including by:**

### **a. taking pupils off the School premises without obtaining parental permission**

The panel first heard evidence on this particular allegation from Individual A. She explained to the panel that, at the beginning of an academic-year, parents would sign a generic consent form which would cover local, informal trips. However, she stated that any length of trip outside of that remit would require consent, albeit informal consent could be sufficient to satisfy that requirement.

The panel also heard live evidence from Individual C. She confirmed that her recollection was some sort of generic consent was signed by her at the beginning of the school year, in terms of pupils being taken out of school. She would, however, have expected for her consent to have been obtained prior to Pupil E taking part in a quad-biking activity.

Mrs Phillips, in her evidence explained that she had taken four pupils from her class to the park opposite the school in order to ride their bikes. When she reached the park, she noticed another class, with whom there had been issues previously in respect of the pupils, were already present. She therefore used her judgement to take the pupils elsewhere in order to ride their bikes.

The panel also noted the witness statement from [REDACTED] who said it was:

*".... common practice that they would be taken out of class to go out in the local community such as the park across from the school...I was not required to obtain parental consent or conduct a risk assessment to be able to take pupils out on these informal trips. It is my understanding that consent was provided by parents at the beginning of each year to cover these sort of trips, as they happen so often that parents would be signing consent forms several times a week. Members of staff had to be able to exercise their own judgements and react to events".*

In the panel's view, there was also evidence that teachers could exercise some judgement in relation to taking pupils out of School. In any event, there was parental permission in place, and there was insufficient evidence to prove, on the facts, that this generic permission was not sufficient for the trip made by Mrs Phillips and the pupils.

On that basis, the panel did not find this allegation proved.

### **b. taking pupils off the School premises without informing the School as to where you were going**

The panel heard live evidence on this matter from Individual A, who said that it was school policy that pupils were "signed out" when a teacher took the pupils off the school premises. However, Individual A also confirmed that she had not checked to determine whether Mrs Phillips had signed the pupils out on this occasion.

Individual A's evidence was corroborated by an email, dated 11 October 2017, from [REDACTED] to a number of teachers at the school, including Mrs Phillips. Within the email, it was stated

*"• Pupil information should be collected from the front office and taken with you once off Site;*

*• [REDACTED] (or other [REDACTED]) needs to be notified – just in case any pupils have meds or need to take an inhaler out with them".*

Mrs Phillips, in her evidence, stated she did inform the School by waving to the School receptionist, as she was leaving the premises with the pupils, to indicate that she was taking them out of School.

Mrs Phillips also explained to the panel that, whilst she had received the email from [REDACTED] approximately two years prior to this incident, she had also thought it referred to larger, formal school trips. In Mrs Phillips' mind, the trip on 1 July 2019 was more informal.

The panel also noted the witness statement from [REDACTED] that stated he never completed any "paperwork" for a regular weekly trip he did with a pupil.

In the panel's view, Mrs Phillips had effectively accepted that she had not informed the School as to where she was going with the pupils although she had given, some indication, that she was leaving the premises.

In the panel's view, it would have been best practice, for the purposes of the School's administration, for the School to know exactly where pupils were. However, the panel was not persuaded, on the TRA's evidence as presented, as to how Mrs Phillips' actions impacted on safeguarding. If an issue arose on the trip, contact could be made with the school to provide assistance, whether or not the exact location of the pupils had previously been notified to the School.

In the panel's view, it was not clear how Mrs Phillips not informing the School as to the destination of the trip failed to safeguard pupils as she, and other staff, were present.

On that basis, the panel did not consider that Mrs Phillips had not taken appropriate action or ensured appropriate action had been taken. The panel therefore found this particular not proved.

### **c. failing to ensure that pupils wore helmets when using a quadbike.**

Individual A told the panel that, subsequent to the pupils' trip on 1 July, she became aware that the pupils *"did not apparently wear helmets"*. She explained that, in respect of Pupil E's injury, his [REDACTED] informed her that the pupil had arrived home with a

mark above his eye. Whilst Individual A could not record exactly how she was informed, she thought it would be by phone or email.

In her live evidence, Individual A said that she did not make direct enquiries with Pupil E as to how the mark was caused but accepted that she should have done. She also explained that some record of this injury should have been recorded somewhere, either in the first aid book or on a "pink sheet / body map".

In questioning, regarding the conversation that she had with Pupil E, she explained that the phrasing she used, stating that Mrs Phillips was not in trouble, was only to put the pupil at ease and try to allay any fear that he may have had.

Individual A told the panel that she subsequently made enquires with Mrs Phillips, and the two teaching assistants, [REDACTED], who accompanied the pupils during the activity. Individual A stated the initial account given by those three people was that, whilst the need for the pupils to wear helmets was considered, it was not deemed necessary as, following an internet search, it was determined that it was not a "legal requirement to do so".

Contrary to this initial account, Individual A said that some days after it had been given, two of the pupils reported to her that they did wear helmets. Individual A's view was that the pupils had been "coached" by Mrs Phillips into saying this. Other than the pupils' accounts seemingly benefiting Mrs Phillips, no other basis for this view was put forward by Individual A.

Mrs Phillips, in her evidence to the panel, confirmed that pupils wore helmets when they needed to. The panel noted that this was corroborated by the witness statement of [REDACTED], which stated that helmets were used, and also the transcript of the interviews with two of the pupils that were present.

The panel also received live evidence on this from Individual E, who owned the property where the quadbikes were used, and who was present when the pupils attended. Individual E told the Panel that the pupils did wear helmets when using the quadbikes. She explained that she remembered this as her son, who was not a pupil but was also using the quadbike, made reference to the pupils wearing helmets when he did not.

Whilst the panel noted Mrs Phillips' initial position regarding helmets, it did not think that this was sufficient for the TRA to discharge its burden, having received contrary evidence from a number of witnesses, both live and written, who were present at the time. The panel also considered the notes of the pupils' recollection of events, which corroborated the live and written evidence received.

On that basis, the panel did not find this particular proved.



**d. failing to carry out a risk assessment regarding taking pupils off the School premises and / or pupils riding quadbikes without helmets.**

For the reasons given in the Panel's finding in relation to particular 2c, the Panel did not go on to consider the "quad bike" element of this particular.

With regard to the risk assessment, in the Panel's view, the TRA's case at its highest was based on the October 2017 email from [REDACTED]. However, the panel was not persuaded that a risk assessment had not been undertaken by Mrs Phillips. Mrs Phillips was able to explain to the panel the potential risks she had thought about prior to taking the pupils off the School premises, and indeed before the quad bike activity, and whilst this may have been informal, it was still an assessment.

There was also evidence that a teacher at the School was able to use their judgement when taking pupils off the School premises. Whilst a written risk assessment may assist any future enquiry as to how an incident took place, in the circumstances of this case, there was no evidence that Mrs Phillips had not carried out any risk assessment.

On that basis, the panel did not find this allegation proved.

**3. Your behaviour, as may be found proven:**

**a. at allegation 1(a) above caused Pupil C to suffer distress**

In addition to the above evidence, the panel noted that Individual A did not speak to Pupil C in order to find out why he was upset.

In her live evidence, Individual D stated that her opinion was that the remark by Mrs Phillips caused Pupil C to suffer distress. This opinion was based on her interpretation of Pupil C's reaction, although she also accepted that comments made by other pupils could have caused the reaction.

Whilst Individual D's analysis of Pupil C's emotions could have been correct, in the circumstances, on balance, it was insufficient to demonstrate to the panel that Pupil C had indeed suffered distress and that this distress was caused by Mrs Phillips' words.

In the panel's view, the evidence put forward by the witnesses was insufficient to discharge the TRA's burden of proving this particular. On this basis, the panel did not find this particular proved.

**b. at allegation 2 above:**

**i. put one or more pupils at an increased risk of harm;**

**ii. resulted in Pupil E sustaining an injury to the area around his eye.**

Having not found any element of particular 2 proved, the panel did not consider particular 3b.

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

Having found a number of the particulars of the allegation 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 Phillips, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mrs Phillips 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.

Whilst the panel did not condone Mrs Phillips’ behaviour for particulars 1a and 1b, it did consider that the context in which the conduct took place to be of relevance. Mrs Phillips’ reaction on these two occasions was minimal in length, in reaction to a particular scenario and there was no evidence that there was any intent by Mrs Phillips to specifically target her behaviour at a pupil in order to cause them some detriment.

Whilst the panel did not consider Mrs Phillips’ conduct on those two particulars to be at the appropriate standard, it also did not consider them to be so far below the standard to amount to unacceptable professional conduct or conduct that may bring the profession into disrepute.

With regard to particular 1c, the panel was not persuaded by Mrs Phillips’ explanation that this was a sarcastic comment. Instead, in the panel’s view, it was a remark by a teacher to a [REDACTED] that appeared to attribute some blame to the [REDACTED] as to the teacher’s position.

Any contact with a [REDACTED], or [REDACTED], must retain professional boundaries at all times. On this occasion, whilst only a single comment, it was a comment that had a significant effect on Individual C, who was only fulfilling her statutory obligations by reporting the mark on her [REDACTED]. This was not a flippant, verbal comment made in the heat of the moment, but a comment made in writing, with some permanency.

In the panel's view, this therefore distinguished it from other comments made by Mrs Phillips, and was far below the appropriate standard.

In respect of particular 1d, whilst the panel did have consideration to the circumstances during which Mrs Phillips' wrote the Facebook post, there were also aggravating features: a pupil's name was mentioned in a public forum, accompanied by swearing and, in the panel's view, was not an immediate reactive action.

Whilst the panel accepted that Mrs Phillips appeared to intend that this information would only go to a current staff member, in the panel's view, that was still not a suitable way for a teacher to reference a pupil. However, the fact was that the information actually reached a wider, albeit still very limited, audience and that at least one member of the closed Facebook group thought it necessary to record the comment by way of a screenshot. This was indicative of the likely perception of its appropriateness, which aligned with that of the panel.

The panel also considered whether Mrs Phillips' conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice and found that none of these offences to be relevant. Nevertheless, for the reasons given above in respect of 1c and d, the panel did consider this to be misconduct of a serious nature, which fell significantly short of the standards expected of the profession.

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.

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, potentially damaging the public perception. This was indicated by the fact that Individual C was so affected by the text, and that the Facebook comment was screenshotted by another member of the group.

The panel thus found that Mrs Phillips's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found two of them to be relevant in this case, namely:

- declaring and upholding proper standards of conduct; and
- the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mrs Phillips, which involved her sending an inappropriate text message to the [REDACTED] of a pupil, and publicly identifying on Facebook another pupil along with derogatory language, the panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was present. The conduct found against Mrs Phillips was outside that which could reasonably be tolerated.

However, it appeared common ground between the parties that the environment at the School was highly charged, and there were regular episodes of violence by pupils on teachers. Despite these issues, the panel also received a number of positive testimonials, both in live evidence and in writing, in respect of Mrs Phillips and her teaching qualities.

It was clear from the live evidence given by the TRA's witnesses that Mrs Phillips was able to build strong, positive relationships with pupils, in particular vulnerable ones, and their parents / carers. Various professionals cited that this was to the significant benefit of the pupils, both in the short and long term.

In the panel's view, such relationships were likely to be developed by someone who was dedicated and committed to the teaching profession, and who had (and has) the motivation to help pupils succeed.

The written testimonials, from a variety of sources, stated that Mrs Phillips, in respect of a pupil, amongst other contributions, had made a:

- *"...massive difference...because of your nurturing style of teaching..."*

With regard to another pupil, Mrs Phillips had

- *"...helped him massively in the last two years. Mrs Phillips has also been there for me as a parent...I feel Mrs Phillips has gone above and beyond in terms of*

*teaching and care for my son, and I cannot fault her services. She was an asset to Chaigeley school and is already extremely missed".*

The panel also considered the evidence from Individual C to be persuasive in all respects: whilst she was clear to the panel as to how receiving the text message had made her feel at the time, she was equally categorical in her description as to the positive qualities that Mrs Phillips had as a teacher, and her contributions to the profession and community. Similarly, Individual D mentioned the virtues of Mrs Phillips in dealing with difficult pupils, and was skilled in de-escalating potentially explosive situations with pupils.

The panel also received further live evidence from Mrs Phillips in regard to mitigation. During this evidence, Mrs Phillips explained that she had reflected on her past conduct, and she assured the panel that similar incidents would not happen in the future. The process before the TRA had helped her appreciate the impact that her actions had had on others, and she expressed her remorse to those involved.

Mrs Phillips also explained her understanding as to the boundaries that she should abide by when communicating by social media, and that she now had an improved appreciation of the inherent stresses in working in a similar environment that she experienced at the School.

Mrs Phillips also told the panel, despite the difficulties caused by the ongoing hearing, she had remained working in the educational sphere and was focussed on improving safeguarding, both in how she practised and the topics that she taught. In the panel's view, this was indicative of her dedication to the teaching profession, and to an area of education of great importance, which she may not have had such a strong understanding of previously.

As a result of the reasons above, the panel decided that there was a strong public interest consideration in retaining Mrs Phillips in 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 Mrs Phillips.

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 Phillips. 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, one that was relevant in this case was:

- serious departure from the personal and professional conduct elements of the Teachers' Standards.

Even though some of the behaviour found proved in this case may indicate that a prohibition order could 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.

In the light of the panel's findings there was no evidence that Mrs Phillips' actions were not deliberate or that she was acting under duress, but it did accept that she previously had good character following a lengthy career.

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, the recommendation of no prohibition order would be both a proportionate and an appropriate response.

Whilst the two incidents in questions were, in themselves, serious, the panel also noted that neither were repeated and that Mrs Phillips made attempts to rectify matters herself:

- she had offered Individual C her apologies (both prior to, and during, the hearing), and reiterated how deeply she regrets her actions; and
- when Mrs Phillips realised that her Facebook post could be seen by a section of public wider than she expected, she immediately removed the offending wording.

The panel also considered the incidents to be at the less serious end of the possible spectrum, and had no direct impact on any pupil. Having considered the mitigating factors that were present, as well as the efforts made by Mrs Phillips to minimise any damage she had caused by her actions, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

## **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 sanction.

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 some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, including 2 a.b.c.d, 3 a.b. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mrs Barbara Phillips should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mrs Phillips 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.

The panel finds that the conduct of Mrs Phillips fell significantly short of the standards expected of the profession.

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 Phillips, and the impact that will have on the teacher, is proportionate and in the public interest.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mrs Phillips explained that she had reflected on her past conduct, and she assured the panel that similar incidents would not happen in the future. The process before the TRA had helped her appreciate the impact that her actions had had on others, and she expressed her remorse to those involved." 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 Mrs Phillips, which involved her sending an inappropriate text message to the [REDACTED] of a pupil, and publicly identifying on Facebook another pupil along with derogatory language, the panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was present. The conduct found against Mrs Philips was outside that which could reasonably be tolerated.”

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 Phillips herself and the panel comment “It was clear from the live evidence given by the TRA's witnesses that Mrs Phillips was able to build strong, positive relationships with pupils, in particular vulnerable ones, and their parents / carers. Various professionals cited that this was to the significant benefit of the pupils, both in the short and long term.

In the panel's view, such relationships were likely to be developed by someone who was dedicated and committed to the teaching profession, and who had (and has) the motivation to help pupils succeed.”

A prohibition order would prevent Mrs Phillips from teaching. 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, “It appeared common ground between the parties that the environment at the School was highly charged, and there were regular episodes of violence by pupils on teachers. Despite these issues, the panel also received a number of positive testimonials, both in live evidence and in writing, in respect of Mrs Phillips and her teaching qualities.”

I have also placed considerable weight on the following comments from the panel “Mrs Phillips also told the panel, despite the difficulties caused by the ongoing hearing, she had remained working in the educational sphere and was focussed on improving safeguarding, both in how she practised and the topics that she taught. In the panel's view, this was indicative of her dedication to the teaching profession, and to an area of education of great importance, which she may not have had such a strong understanding of previously.”



The panel also said “The panel also considered the incidents to be at the less serious end of the possible spectrum, and had no direct impact on any pupil. Having considered the mitigating factors that were present, as well as the efforts made by Mrs Phillips to minimise any damage she had caused by her actions, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.”

Although the incidents found proven in this case were serious, the panel noted that neither were repeated and that Mrs Phillips made attempts to rectify matters. The panel commented that there was a strong public interest consideration in retaining Mrs Phillips in the profession.

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath.

**Decision maker: Sarah Buxcey**

**Date: 10 June 2022**

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