



Teaching
Regulation
Agency

Mr Ben Singh Sowerby: Professional conduct panel outcome

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

March 2022

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

Teacher:	Mr Ben Singh Sowerby
Teacher ref number:	1648319
Teacher date of birth:	29 September 1985
TRA reference:	19657
Date of determination:	30 March 2022
Former employer:	Corbets Tey School, Essex

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 13 to 16 December 2021 by way of a virtual hearing, to consider the case of Mr Ben Sowerby. The panel convened privately on 23 December 2021 and 4 January 2022 to further deliberate its decision. The hearing reconvened on 30 March 2022.

The panel members were Ms Susan Humble (lay panellist – in the chair), Mr Alan Wells (former teacher panellist) and Mr John Martin (teacher panellist).

The legal adviser to the panel during 13 to 16 December 2021, 23 December 2021 and 4 January 2022 was Mr Robert Kellaway of Birketts LLP solicitors. The legal adviser to the panel on 30 March 2022 was Ms Abigail Trencher of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Naomh Gibson of Halcyon Chambers instructed by Browne Jacobson LLP solicitors.

Mr Sowerby was present and was represented by Ms Louise Price of Doughty Street Chambers instructed by Ms Abigail Oprey of the National Education Union.

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

Allegations

The panel considered the allegations set out in the notice of proceedings dated 1 June 2021.

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

1. Whilst applying for the role of class teacher at Corbets Tey School ('the School' [and also referred to as 'CT School' in this decision']) and/or following his appointment he:
 - a. Named Individual A as a reference and stated them to have been his line manager when this was not the case;
 - b. Named Individual B as a reference and stated them to have been Head of Music when he knew this to be untrue;
 - c. Named Individual C as a reference and stated them to have been his line manager at his previous employer when this was not the case;
 - d. Stated that his previous salary was £45,000 when this was not the case;
 - e. Requested and/or permitted Individual A and/or Individual B to provide references indicating that his salary had been £45,000 when this was not the case;
 - f. He stated that his previous role had been Acting Deputy Head Teacher when this was not the case;
 - g. He provided a reference for named Individual B stating that he was their line manager and/or the Acting Deputy Head at East London Independent School when this was not the case.
2. His conduct as may be found proven at 1 above lacked integrity and/or was dishonest.
3. On or around 23 September 2020 he acted inappropriately during telephone calls to parent(s) by:
 - a. Disclosing the names of children and/or their personal details in relation to the individual needs of a child to a parent/guardian of another child;
 - b. Making allegations of bullying by a child to their parent which were unfounded and/or without the knowledge of the School;
 - c. Claimed to have been rated as an outstanding teacher by Ofsted when this was not the case;
 - d. Misrepresented his employment history to one or more parents.

4. His conduct as may be found proven at 3 (c) - (d) above lacked integrity and/or was dishonest.

Mr Sowerby denied the facts of allegations 1 to 4, in the response to the notice of referral, which he had signed on 14 June 2021. At the hearing, Mr Sowerby's representative informed the panel that Mr Sowerby accepted the facts of the following allegations: 1.a, 1.c, 1.d, 1.e, 1.f, 1.g and 3.a, 3.c and 3.d.

Mr Sowerby did not accept the facts of allegations 1.b, 2, 3.b and 4.

Mr Sowerby denied that any of the accepted facts amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

Application to admit additional documents

The panel considered a preliminary application from the teacher's representative for the admission of an additional document. The teacher's document was a short additional witness statement from Mr Sowerby.

During the course of the hearing, the panel also considered a further application from the teacher's representative for the admission of additional documents.

The documents subject to these applications had not been served in accordance with the requirements of paragraph 5.37 of the Teacher Misconduct: Disciplinary procedures for the teaching profession ('the Procedures'). Therefore, the panel was required to decide whether the documents should be admitted under paragraph 5.34 of the Procedures.

The panel heard representations from the teacher's representative. The applications were not opposed by the presenting officer.

Whilst the documents could, and should, have been provided in advance of the hearing, the panel considered that both applications related to relevant documents. Further, on balance, the admission of the documents was in the interest of a fair hearing, namely the panel having regard to all relevant evidence. Accordingly, the documents were added to the bundle.

Application for part of the hearing to be heard in private

At the start of the hearing, the panel considered an application from the teacher's representative that the parts of the hearing relating to Mr Sowerby's [redacted] should be heard in private. No previous indication of such an application had been made by Mr Sowerby or on his behalf. The panel heard submissions from the presenting officer on

the application before reaching its decision. The presenting officer did not object to the application.

The panel adjourned to consider the application. The panel noted that Mr Sowerby's [redacted] formed a central part of his responses to the allegations. The panel concluded that it would not be in the public interest, and in particular the requirement for open justice, for the parts of the hearing which concerned these conditions to be heard in private. Accordingly, the panel did not accept the application.

Updated Advice

The document Teacher Misconduct: The Prohibition of Teachers, dated October 2018 (referred to as "the Advice") was updated in February 2022 ("the 2022 Advice"). The 2022 Advice was published after the panel had heard evidence and submissions on 13-16 December 2021 and 4 January 2022 and reached its decision as to findings in respect of the allegations and whether they amounted to unacceptable unprofessional conduct and conduct that may bring the profession into disrepute. The panel decided that as the panel and the parties had considered and relied upon the Advice prior to 30 March 2022 it would continue to take into account the Advice but that it would be willing to consider submissions on any elements of the 2022 Advice that either counsel for Mr Sowerby or the presenting officer wished to raise with the panel.

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 hearing and response – pages 6 to 28
- Section 3: Teaching Regulation Agency witness statements – pages 30 to 41
- Section 4: Teaching Regulation Agency documents – pages 43 to 172
- Section 5: Teacher documents – pages 175 to 251

In addition, the panel agreed to accept the following at the start of the hearing:

- Second witness statement of Mr Sowerby – pages 252 to 254 (provided at the start of the hearing).

Following a further application during the course of the hearing (see above), the panel agreed to accept the following documents:

- Mr Sowerby's phone bill for the period 2 March 2020 to 14 March 2020 – page 255.
- Screenshot of Individual F's work mobile number as saved in Mr Sowerby's phone – page 256.
- Email from Mr Sowerby to East London Independent School dated 27 November 2021 - page 257.

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

Witnesses

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

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

The panel heard oral evidence from Mr Sowerby. No other witnesses were called by Mr Sowerby.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Sowerby was employed as a teacher at East London Independent School ('ELIS') from October 2018 to 3 April 2020. ELIS is an independent special school for pupils aged 7 to 19 years and is part of The Complete Education Solution Group ('TCES Group').

On 4 February 2020, Mr Sowerby made an application to Corbets Tey School ('CT School') for the position of primary teacher. CT School is a state-maintained special school for children with complex learning needs, aged 4 to 19 years. Mr Sowerby had an interview at CT School on 13 February 2020. Mr Sowerby received a conditional offer from CT School for the role on 14 February 2020.

Mr Sowerby resigned from ELIS on 14 February 2020 and his last day of employment was 3 April 2020. Mr Sowerby's employment at CT School commenced on 20 April 2020.

On 16 June 2020, Mr Sowerby completed a written reference for Individual B, stating that he was Individual B's line manager whilst employed at ELIS.

On 23 September 2020, Mr Sowerby made calls to the parents of three children of CT School. CT School commenced an investigation in relation to these calls and other matters. An investigation meeting at CT School was conducted on 16 October 2020 and a further investigation meeting took place on 2 November 2020.

Mr Sowerby resigned from CT School on 13 November 2020. On or around 24 November 2020, CT School referred Mr Sowerby to the TRA.

Findings of fact

The panel's findings of fact on each of the allegations are as follows:

- 1. Whilst applying for the role of class teacher at Corbets Tey School ('the School' [and also referred to as 'CT School' in this decision]) and/or following your appointment you;**
 - a. Named Individual A as a reference and stated them to have been your line manager when this was not the case;**

Mr Sowerby admitted the facts of allegation 1.a. Notwithstanding this admission and Mr Sowerby's other admissions in this case, the panel made its own determination on the facts having considered the evidence before it and representations from the parties.

On 4 February 2020, Mr Sowerby completed an application form for the role of primary teacher at CT School, signing a declaration that the information within the application form was true and correct.

The application form required Mr Sowerby to provide the name and position of the two referees along with their contact details. The form detailed: "*All applicants must complete the reference section of the form and unless otherwise indicated references will be taken up before the interview. Candidates should give the name of their current line manager as their referee.*" Further, it stated: "*If you are applying from outside the maintained sector of education, your most recent employer should be given as a referee*".

On the application form dated 4 February 2020 within the bundle, the panel noted Mr Sowerby had listed Individual A as his first referee and Individual C as his second referee. He detailed that Individual A was "*Head of Post – Line Manager*".

During CT School's investigation on 2 November 2020, Mr Sowerby accepted that Individual A was not in fact his line manager. In his oral evidence, Mr Sowerby also confirmed that Individual A had not been his line manager. Mr Sowerby's evidence was that he saw Individual A as a senior and long-standing member of staff but accepted that Individual A was not in fact his line manager. Individual A may have worked at ELIS school longer than Mr Sowerby, but this did not make him his line manager.

Mr Sowerby's admission that Individual A was not his line manager was corroborated by the evidence the panel heard from Individual D [redacted] and Individual F [redacted]. Although Individual F in particular was unclear on other parts of his evidence, both witnesses were clear that Individual A was not Mr Sowerby's line manager, and the panel considered their evidence was credible on this point.

In his witness statement, Mr Sowerby had stated: *"it was a big mistake to put down Individual A and Individual C as my line managers when this was not the case"*.

Mr Sowerby said that a contributing factor to him putting down Individual A as his line manager was the *"great haste I was working under"*. The panel was unconvinced this had been a contributing factor as the form had been completed on 4 February 2020, following a visit to CT School by Mr Sowerby on 17 January 2020.

In his oral evidence, Mr Sowerby submitted he had mistakenly used the term *"line manager"* when including Individual A on his application form (dated 4 February 2020), having previously entered [redacted] on the application form (see below). This potentially significant evidence had not been included in Mr Sowerby's detailed witness statement.

Whilst the panel accepted that Mr Sowerby expanded on the contents of his witness statement during the hearing, the panel considered this account to be inconsistent with the version of events provided in his witness statement. Moreover, the documentary evidence did not support Mr Sowerby's new explanation. Mr Sowerby had named Individuals A and C on the application form dated 4 February 2020. Mr Sowerby had only emailed CT School to name and provide contact details for [redacted], as an alternative reference, on 14 February 2020 - after he had completed and sent his application form to CT School on 4 February 2020 - in response to CT School's email of 14 February 2020 requesting a work email address for Individual C.

On balance of the evidence, the panel was unconvinced by Mr Sowerby's version of events in his witness statement and his oral evidence given at the hearing.

There was a lack of clarity as to who was Mr Sowerby's immediate line manager following the departure of [redacted] in June 2019. However, on the evidence before it, the panel was satisfied that Individual A (or Individual B or C for the reasons set out below) was not Mr Sowerby's line manager at ELIS.

The panel found the facts of allegation 1.a. proved.

b. Named Individual B as a reference and stated them to have been Head of Music when you knew this to be untrue;

Mr Sowerby denied the facts of allegation 1.b.

Mr Sowerby provided Individual B as a referee in his application for CT School. Individual B provided a reference to CT School dated 18 March 2020.

The panel heard that there were around 10 teachers at ELIS when Mr Sowerby worked there. Individual B was [redacted] at ELIS. Individual B had referred to himself as [redacted] in a statement he provided on 21 January 2021. Individual B was not called to give evidence and the panel was therefore unable to test his evidence. The weight the panel gave to Individual B's evidence was further reduced in light of the panel's findings in allegation 1.g (as set out below).

Mr Sowerby's evidence was that he had named Individual B as [redacted] as Individual B had verbally informed him that was his position when he had asked Individual B to be a referee.

Both Individual E and Individual F gave oral evidence at the hearing that Individual B was not [redacted] and that there had not been [redacted] at ELIS.

The allegation was that Mr Sowerby stated Individual B [redacted], when naming him as a reference. In the panel's experience it was not unusual in a small school, with a limited number of teachers, for a subject lead to describe themselves, or be described as, Head of Subject even if there was no department. The panel considered it was more likely than not that Individual B had described himself as [redacted] and that Mr Sowerby had believed Individual B was [redacted] when he named him as a reference.

The panel did not find the facts of allegation 1.b. proved.

c. Named Individual C as a reference and stated them to have been your line manager at your previous employer when this was not the case;

Mr Sowerby admitted the facts of allegation 1.c.

On his application form dated 4 February 2020, Mr Sowerby had provided Individual C as his second referee and detailed she was: "*Director of Teaching and Learning – Line Manager*". Mr Sowerby had not clarified within the application form, or when he was asked to provide a work email address for Individual C, that Individual C did not work at ELIS.

Individual C had known Mr Sowerby at the TBAP AP Academy ('TBAP') where Mr Sowerby had completed his PGCE and NQT year during the period September 2015 to October 2018. Individual C had left TBAP in [redacted]. In her email to the teacher's union dated 3 February 2021, Individual C stated she: "*had the chance to coach Ben in my capacity as a senior leader (I was not his line manager but [redacted])*". Whilst Individual C had been a senior leader, she had not been Mr Sowerby's line manager and had not worked at ELIS.

The panel found allegation 1.c. proved.

d. Stated that your previous salary was £45,000 when this was not the case;

Mr Sowerby admitted the facts of allegation 1.d.

In the application form, Mr Sowerby had detailed his salary as “£45,000” within the section titled “*Present/Most Recent Employer*” in the subsection “*Salary and Grade*”.

Mr Sowerby’s basic pay at ELIS was in fact £36,050 with an additional responsibility fee of £4,645. His salary at ELIS therefore totalled £40,695. The panel accepted that as a matter of fact Mr Sowerby’s salary at ELIS was £40,695. In the panel’s opinion, Mr Sowerby, as he now accepted, should have broken down these two elements in his application form so the CT School was aware of his actual salary breakdown.

Mr Sowerby’s primary explanation for putting £45,000 on the form, was that he had mistakenly put his income for the year and had therefore included approximately £4,000 which he had received as income from a private role completely unrelated to ELIS. Mr Sowerby provided no clarification around this in the form or otherwise to CT School. CT School discovered this issue following investigations into other matters.

Mr Sowerby’s total actual income, including his total salary at ELIS and his private job salary was c.£44,695 (basic pay £36,050, additional responsibility £4,645 and private payment of c.£4,000 = c.£44,695). This was c.£305 less than the amount he had put on the application form. Mr Sowerby accepted he had rounded his total income up to £45,000 and included that amount in his application form rather than the actual total income.

In his witness statement Mr Sowerby also offered the explanation that he had seen the salaries of £40,695 and £45,000 as being in the same salary range and was not attempting to mislead CT School.

On balance, the panel did not accept that the information Mr Sowerby chose to provide in terms of his salary at ELIS (an inflation of £4,305) or on his application form generally, was owing to Mr Sowerby’s [redacted]. It was instead an intentional decision by Mr Sowerby made for his own benefit. In particular, given Mr Sowerby’s age, qualifications and previous work experience, the panel concluded, on the balance of probabilities, that Mr Sowerby was capable of completing the application form accurately with details of his current salary.

The panel found allegation 1.d. proved.

e. Requested and/or permitted Individual A and/or Individual B to provide references indicating that your salary had been £45,000 when this was not the case;

Mr Sowerby admitted the facts of allegation 1.e.

Mr Sowerby's evidence was that he told both Individual A and Individual B that his salary was £45,000 when he asked them to be referees. Both Individual A and B referred to Mr Sowerby's salary being £45,000 in the references provided, dated 13 February 2020 and 18 March 2020 respectively.

As set out already, Mr Sowerby's evidence was that he thought he should include all his income, including his private income of c.£4,000, on the application form. Mr Sowerby admitted, even on this basis, he did not inform Individual A and B of his actual total income but had rounded it up from c.£44,695 to £45,000. Again, the panel considered this was a change from the facts and was to the benefit of Mr Sowerby as he secured a higher salary at CT School owing to this misinformation.

The panel found allegation 1.e. proved.

f. You stated that your previous role had been Acting Deputy Head Teacher when this was not the case;

Mr Sowerby admitted the facts of allegation 1.f.

Mr Sowerby resigned from ELIS on 14 February 2020 and his last day of employment was 3 April 2020.

Mr Sowerby's evidence was that on 4 March 2020, he received a call from Individual F, who was the [redacted] at ELIS at that time. Mr Sowerby's phone records suggested that a phone call did take place on this day. Mr Sowerby's evidence was that during this call, Individual F asked him to take on additional responsibilities as Acting Deputy Headteacher during the remainder of his notice period which would end on 3 April 2020. There was some inconsistency in Mr Sowerby's evidence as to how the alleged role was presented to him during the call; he referred to being both "asked" but also being given a "direct order" by Individual F in his witness statement.

In an investigatory meeting with CT School on 16 October 2020, Mr Sowerby stated he had been Deputy Head before clarifying he had been Acting Deputy Head. In a subsequent investigatory meeting with CT School on 2 November 2020, he stated he was Interim Deputy Headteacher from 4 March 2020.

There were some inconsistencies in Individual F's evidence, but he was clear on the point that he had not promoted Mr Sowerby to Acting Deputy Headteacher before Individual F left the ELIS on or around [redacted]. Individual E also stated that Mr Sowerby had not become Acting Deputy Headteacher. Although the panel gave little weight to Individual E evidence in this regard as she had not been present at ELIS.

The panel noted the statements within the bundle of some of Mr Sowerby's former colleagues. These individuals had not been called to give evidence and therefore the panel had not had the opportunity to explore their statements or test their evidence. The panel gave little weight to Individual B's evidence for the reasons set out in allegation 1.g. In terms of [redacted], he had only provided a vague statement that it had been one of the senior leadership team who had informed all staff that Mr Sowerby's job title and responsibilities had changed. Moreover, [redacted] listed [redacted] as one of the SLT members, who had left ELIS in June 2019. Accordingly, the panel considered [redacted] evidence unreliable.

There was no formal record of a change to Mr Sowerby's job title and there was no change to his salary. Although the panel did not consider this determinative and the panel noted Mr Sowerby asserted that he had made a data subject access request, but ELIS had said all information had been deleted.

In weighing up the evidence, the panel considered it would be very unusual for a teacher to be promoted during their notice period, especially given there was only a month between the phone call and Mr Sowerby's last day of employment with ELIS.

On the balance of probabilities, the panel considered it was more likely the case that Mr Sowerby had been given some responsibilities in the very last month of his employment which a Deputy Headteacher may do. However, the panel considered it was not unusual in their experience for parts of a role that had become vacant to be divided amongst the remaining staff. Even with these additional tasks, the panel was unconvinced that Mr Sowerby had been promoted to the role of Acting Deputy Head.

The panel found allegation 1.f. proved.

g. You provided a reference for named Individual B stating that you were their line manager and/or the Acting Deputy Head at East London Independent School when this was not the case.

Mr Sowerby admitted the facts of allegation 1.g.

Mr Sowerby's evidence was that on 16 June 2020, Individual B had approached Mr Sowerby and asked if he would be a referee in his capacity as the Deputy Head at ELIS.

Mr Sowerby provided a reference for Individual B for a role at an education recruitment agency on 16 June 2020. Mr Sowerby detailed that he was Individual B's line manager in the reference.

In his witness statement, Mr Sowerby stated he made the mistake of not checking he was in a position to write such reference and: "*I realise in hindsight that I made a big mistake in not seeking the school's authority to write this reference*".

Mr Sowerby graded Individual B as 'outstanding' across all performance criteria in the reference as had been the case with the references provided by Individual A and B for Mr Sowerby.

The panel was concerned that on the one hand Mr Sowerby had asked Individual B, who he said he believed to be [redacted], to provide a reference in February 2020, but had then himself provided a reference for Individual B in June 2020 purporting to be Individual B's line manager.

The panel found allegation 1.g. proved.

2. Your conduct as may be found proven at 1 above lacked integrity and/or was dishonest.

Mr Sowerby denied allegation 2.

In reaching this decision, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford* and *Wingate & Anor v The Solicitors Regulation Authority* and considered all of the evidence before it.

The panel considered each of the allegations in turn.

Overall, the panel did not consider Mr Sowerby to be a credible witness. Mr Sowerby had been inconsistent in parts of his evidence. The panel generally noted a pattern in that Mr Sowerby had submitted that his actions were mistakes, of which there had been a great many.

On the balance of probabilities and having considered all the evidence, the panel considered that Mr Sowerby was aware, given his age, qualifications and work experience, that the information he was providing on important issues was false and misleading. All of the alleged 'mistakes' were for Mr Sowerby's benefit, leading to a new role and improved salary for Mr Sowerby.

The panel considered that Mr Sowerby was aware at the relevant time that his actions were dishonest, and the panel considered that Mr Sowerby's actions in relation to the proven facts had been dishonest by the standards of ordinary decent people and had also lacked integrity.

Allegation 1.a.

The panel determined that Mr Sowerby had acted dishonestly and without integrity in naming Individual A as his line manager. Mr Sowerby stated he believed Individual A was the [redacted] at ELIS and had helped Mr Sowerby with his National Professional Qualification for Senior Leadership ('NPQSL') and therefore considered him to be an appropriate person to provide as a reference. The panel concluded Mr Sowerby was fully aware when he had filled out his application form that Individual A was not his line

manager and the information, he provided to support his application, especially for a role teaching vulnerable children, was false.

Allegation 1.c

The panel concluded that Mr Sowerby had acted dishonestly and without integrity in naming Individual C as his line manager at his previous employer.

The panel considered that at the time Mr Sowerby completed the application form he was aware that it was dishonest to refer to Individual C as his line manager, without clarifying in the form or to CT School that Individual C had not worked at ELIS.

On the balance of probabilities, the panel considered that Mr Sowerby had intentionally given the false impression to CT School that Individual C was his line manager at ELIS.

Allegations 1.d and 1.e

The panel was unconvinced by Mr Sowerby's explanation that when completing the application form, he had believed he should detail his total income (which included an alleged c.£4,000 of work completely unrelated to his salary at ELIS).

Mr Sowerby presented to the panel as an educated and intelligent adult who had held a number of professional posts in his career. In the panel's view, Mr Sowerby was aware at the time that he should have only stated his salary at ELIS when completing his application form.

The panel found it suspicious that Mr Sowerby had felt the need to tell Individuals A and B of his salary when requesting references from them, given that on his own case he considered both to be senior leaders. Mr Sowerby's explanation was that he believed that even as senior leaders, Individuals A and B would not have been able to access his salary information. The panel was unconvinced that this had actually been the case. Rather it was a further example of a convenient explanation for events to hide Mr Sowerby's dishonesty.

Allegation 1.f.

The panel decided that Mr Sowerby was aware he had not in fact been the Acting Deputy Headteacher at ELIS when he stated that to have been his role during CT School's investigatory meeting. The panel considered Mr Sowerby had intentionally used the fact that he had some additional responsibilities in the last month of his employment to mislead others that he had been promoted to Acting Deputy Headteacher when that had not in fact been the case.

As with the other proved allegations, the panel concluded that Mr Sowerby's conduct was dishonest by the standards of ordinary decent people.

Allegation 1.g

Mr Sowerby had been in employment since at least November 2008 and was highly qualified. Having considered this fact and the other evidence before it, the panel determined that Mr Sowerby was aware that when he had provided the reference for Individual B that he had not been Individual B's line manager as stated. This was dishonest by the standards of ordinary decent people.

Having worked in the education and the health care system, Mr Sowerby would have been very acutely aware that references should be accurate and true, as would any ordinary decent person. The impact of providing a false reference in the education setting could be deeply damaging, especially to pupils.

Summary

In terms of dishonesty and lack of integrity, the panel found allegation 2 proved in respect of the conduct found proved at allegations 1.a, 1.c, 1.d, 1.e, 1.f and 1.g.

3. On or around 23 September 2020 you acted inappropriately during telephone calls to parent(s) by:

a. Disclosing the names of children and/or their personal details in relation to the individual needs of a child to a parent/guardian of another child;

Mr Sowerby admitted the facts of allegation 3.a.

Individual D [redacted] had been approached by a parent governor at CT School, who had been contacted by the parent of Pupil A regarding a phone call she had received from Mr Sowerby. Individual D listened to the recording of this phone call. Individual D then listened to the recordings of two further phone calls Mr Sowerby had made to parents on the same day, and later obtained transcripts of the calls.

Mr Sowerby accepted that he had acted inappropriately in respect of all three calls to the parents of the pupils on 23 September 2020.

The panel carefully considered the transcripts of the three telephone calls. Within the transcripts, it was clear Mr Sowerby had disclosed the first names of the pupils to the parents of other pupils. Furthermore, Mr Sowerby had disclosed the individual needs of pupils to parents of other children. Mr Sowerby accepted he had referred to the tendencies and behaviours of the other children, who he had named during his calls with parents of other children.

The panel found the facts of allegation 3.a. proved.

b. Making allegations of bullying by a child to their parent which were unfounded and/or without the knowledge of the School;

Mr Sowerby denied the facts of allegation 3.b.

The transcripts detailed that during the call with Pupil A's [redacted], Mr Sowerby had stated: *"with regards to Pupil A, because of how he's presenting at the moment he is changing a little bit of the work avoidance and targeting another learner which is classed as bullying"*.

Mr Sowerby sought to introduce new evidence at the hearing: that he had been instructed by his line manager at CT School to make the calls to parents, when in his witness statement he had stated he had informed his line manager that calls were being made to parents. Again, the panel noted there were inconsistencies in the evidence Mr Sowerby gave in this witness statement and that which he gave at the oral hearing.

The panel considered that in making the statement to Pupil A's [redacted] he had made an allegation of bullying by a child to their parent without the knowledge of CT School. When questioned, Individual D acknowledged that CT School was aware of the challenging behaviour of some pupils, but bullying had not been discussed.

The panel found the facts allegation of 3.b. proved.

c. Claimed to have been rated as an outstanding teacher by Ofsted when this was not the case;

The panel noted within the transcript that Mr Sowerby had stated: *"I got outstanding from Ofsted with regards to my teaching and that's why [Individual D is] really keen for me to take this class"*.

Mr Sowerby's explanation was that he had experienced his first, and only, Ofsted inspection at Beachcroft AP Academy as an NQT back in 14 December 2016. Mr Sowerby stated that following the inspection the Head of School *"thanked our primary department"* and emphasised how outstanding *"we were"*. The panel noted this was not an outstanding rating from Ofsted. In his oral evidence, Mr Sowerby stated the Ofsted grading for Beachcroft AP Academy was in fact 'good' not 'outstanding'. Further, Mr Sowerby's version of events during his oral evidence developed from stating the whole department had been told they had been outstanding, to him personally being told he was outstanding.

Mr Sowerby's further explanation for this comment was that, during his employment with ELIS, he had *"supported"* [redacted] in delivering staff development on demonstrating an outstanding lesson to all teaching staff and that he had also had a formal lesson observation from the Executive Headteacher and another teacher which was, he said, *"given a 1 (Outstanding) for the teaching and learning subsection"*. Again, the panel noted this was not an outstanding rating from Ofsted. Ofsted has never graded individual teachers.

The panel found the facts of allegation 3.c. proved.

d. Misrepresented your employment history to one or more parents

Mr Sowerby admitted the facts of allegation 3.d.

The panel noted that during one of the calls to one of the pupil's parent's Mr Sowerby had stated: *"in my previous job I was a deputy head teacher"*.

The panel found allegation 3.d. proved.

4. Your conduct as may be found proven at 3.c - d above lacked integrity and/or was dishonest.

Mr Sowerby denied allegation 4.

Allegation 3.c

The panel determined that Mr Sowerby knew he had not been rated as an outstanding teacher by Ofsted when he called the pupil's parent on 23 September 2020. Mr Sowerby had been qualified as a teacher since 2016 and he completed his NPQML in 2018 and had been undertaking his NPWSL in 2018/2019. The panel concluded that given his experience and qualifications Mr Sowerby would have known that Ofsted has never graded individual teachers and that he had not been graded as Outstanding by Ofsted at the material time.

The panel determined that Mr Sowerby had deliberately misrepresented himself as an Outstanding teacher to Pupil A's mother when he knew this to be incorrect.

Allegation 3.d

Similarly, the panel concluded that Mr Sowerby had known he had not been deputy head teacher in his previous school (CT School) but had stated he was to try and impress a parent.

The panel found that Mr Sowerby's conduct as proved at allegation 3.c and 3.d was dishonest and lacked integrity. The panel found allegation 4 proved.

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

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

Dealing with unacceptable conduct first: In doing so, the panel had regard to the Advice.

The panel was satisfied that the conduct of Mr Sowerby, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Sowerby was in breach of the following standards:

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

The panel was satisfied that Mr Sowerby's conduct amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel considered that in his proven actions, Mr Sowerby had fallen well short of the basic requirements of the profession. Given the high degree of trust and responsibility which is placed in them, it is fundamental to the teaching profession that teachers act both honestly and with integrity.

The panel considered that Mr Sowerby's conduct had been for his own benefit and was not to the benefit of CT School, the pupils or their parents. Further, the panel found Mr Sowerby's dishonesty and lack of integrity was not limited to a one-off event but there had been multiple untruths both in the application which Mr Sowerby provided to CT School in February 2019 but also in his comments to parents whilst employed at CT School later that year.

The panel considered the consequences of Mr Sowerby's actions to have been serious. The CT School, which taught vulnerable pupils, was not given the correct reference information about a teacher it went on to employ. Further, CT School paid Mr Sowerby a salary of c.£47,300 benchmarked on what they believed to be his existing salary given the incorrect information which Mr Sowerby had provided.

Mr Sowerby's actions on 23 September 2020 also had serious consequences. Following their conversation with Mr Sowerby a parent of Pupil A called a parent governor to raise concerns. The panel determined that certain comments Mr Sowerby had made during the calls, particularly to Pupil's A parent, had been inappropriate. Discussing the behaviour and learning needs of other pupils and raising the issue of bullying could have had

serious consequences. Based on the proven allegations, the risk of parents intervening and confronting other pupils and parents was very real given the information Mr Sowerby had disclosed.

Mr Sowerby had also misled the potential employers of Individual B by describing himself as his line manager.

The panel found that Mr Sowerby was guilty of unacceptable professional conduct in respect of the proved allegations.

Turning to conduct that may bring the teaching profession into disrepute: 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 panel found that Mr Sowerby had not acted as a positive role model in respect of his proven misconduct. The panel considered that Mr Sowerby's proven actions would be likely to bring the teaching profession into dispute, in that public confidence in the profession would be damaged by a finding that a teacher had dishonestly provided incorrect information on their application form. Further, ordinary members of the public would not expect a teacher to make inappropriate comments during a call to parents, lie about their employment history or mislead a prospective employer about their salary.

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.

The panel therefore found that Mr Sowerby's proven actions constituted conduct that may bring the profession into disrepute.

In summary, having found the facts of the allegations 1.a, 1.c, 1.d, 1.e, 1.f, 1.g, 2, 3 and 4 proved, the panel found that Mr Sowerby's conduct in respect of these proved allegations 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.

The panel was 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 a 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; declaring and upholding proper standards of conduct; 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 Mr Sowerby, which involved conduct that was both dishonest and lacked integrity, there was a strong public interest consideration in respect of the protection, safeguarding and wellbeing of pupils. The panel considered the submissions made on behalf of Mr Sowerby that there was no risk of harm to pupils. The panel disagreed. On the allegations as proven Mr Sowerby has secured a position with CT School based on references that were not given by those holding the position they purported to hold. This could have very serious and grave consequences to safeguarding of pupils. Further, the panel had found that Mr Sowerby conducted himself inappropriately in conversations with parents with the risk of parents intervening and confronting other pupils and parents.

The panel considered that the conduct found against Mr Sowerby had fallen short of conduct which could be reasonably tolerated. The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Sowerby was not treated with the utmost seriousness when regulating the conduct of the profession. Teachers are role models to pupils and honesty is fundamental to the credibility of a teacher and to the teaching profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present.

The panel considered the extent of the public interest consideration in retaining Mr Sowerby in the teaching profession. The panel was satisfied that Mr Sowerby was a committed and perhaps also an enthusiastic teacher, as set out in character references given on his behalf. The panel was not persuaded, however, that the public interest in keeping him in the profession was at the exceptional end of the spectrum, given the relatively short period of his teacher career and the serious acts of dishonesty that had been discovered. The panel were also mindful that the acts of dishonesty had only been

discovered following a parental complaint and therefore by chance, rather than due to any admission made by Mr Sowerby.

The panel noted that the acts of dishonesty it found proven occurred during his application and recruitment process with CT School, during his conversations with parents, and when he gave a reference for Individual B. They cast grave doubts as to Mr Sowerby's ability and professionalism. They outweighed the fact that Mr Sowerby had not previously been subject to any disciplinary sanctions.

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 Mr Sowerby.

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 Mr Sowerby. The panel took further account of Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests.

In addition to the concerns the panel had relating to the serious departure from the Teachers' Standards and the risk to the protection and wellbeing of pupils, the panel also considered the conduct to be an abuse of trust and position. Mr Sowerby had been consistently dishonest. This was not a one off instance of dishonesty. His misconduct was consistent and deliberate with the purpose of securing benefit for himself. Specifically, the benefit of a position at CT School, on a salary greater than his previous salary, and to inflate his professional standing during his communications with parents.

Having considered all the evidence before it during the course of the hearing, including all the mitigating factors set out below, the panel considered that the risk of Mr Sowerby repeating his actions was significant.

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.

The panel considered that Mr Sowerby's actions were deliberate. There was no evidence to suggest that Mr Sowerby was acting under duress. It was submitted on his behalf that Mr Sowerby's actions arose as a result of stress he was under whilst at his previous school and that he was suffering pain due to an injury sustained at work during that period. The panel did not, however, consider that those factors adequately explained, or justified, the misconduct that was found proven.

The panel noted several references submitted on behalf of Mr Sowerby. In particular, the panel noted the following:

- **Individual K** [redacted]
 - *“Ben was an involved, pro-active, and kind member of the Primary staff team. He was reliable and never complained when he had to cover duties and was real team player, willing to try different things in the drive to improve the provision for Primary AP Learners in under sometimes challenging circumstances.”*
 - *“Ben is a very caring and professional person and I have seen his approach and interactions with staff. He was always a helpful and supportive and a key member of the team.”*

[redacted]

Mr Sowerby stated that during his employment at ELIS, he experienced discrimination and victimisation which resulted in lost trust and faith in Individual G [redacted], and Individual D. Throughout the recruitment process with the CT school, Mr Sowerby states that he was experiencing psychological difficulties as a result of the actions of his employer, ELIS. Mr Sowerby believed that the extreme pressure he was under, exacerbated [redacted], was a huge contributory factor to the mistakes that he made.

Mr Sowerby also confirmed in evidence that during his employment with ELIS he had requested additional computer software called 'Grammarly' to [redacted]. Mr Sowerby asserted that he never received this adjustment and believed that this put him at a significant disadvantage.

The panel reflected on this evidence but did not accept that the stress he may have been under and the difficulties he referenced in any way mitigated the seriousness of his dishonesty.

The panel considered that the stress which Mr Sowerby may have been under during the period of his application, recruitment and appointment process could not excuse his actions in knowingly providing incorrect and dishonest information.

The panel accepted that Mr Sowerby acknowledges that he made mistakes. The panel's view, having had the benefit of hearing his evidence, was that it was not persuaded of the extent of his remorse.

The panel considered whether it would be proportionate to conclude this case with no recommendation of prohibition and whether the publication of the findings made by the panel would be sufficient.

The panel decided 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 Mr Sowerby 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 Mr Sowerby. The severity of the dishonesty and lack of integrity was at the serious end of the spectrum. The panel considered there was a strong chance of repetition of such misconduct, given there had been a series of acts of dishonesty over a period of time. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel considered whether or not it was appropriate 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. Such behaviours include serious dishonesty as found in respect of Mr Sowerby. These were factors which weighed in favour of the panel recommending either that there should be no review period, or if one should be recommended, that it should be of a longer period.

The panel took into account that Mr Sowerby was relatively new to the profession. It considered that after a significant period of time Mr Sowerby may be able to demonstrate sufficient insight and remorse, including a sustained period of incident free employment. The panel's findings indicated a situation in which a review period would be appropriate, provided it was of sufficient duration. The panel decided that it would be proportionate, in

all the circumstances, for the prohibition order to be recommended with provisions for a review period after 5 years.

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 the majority 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 allegation 1b not proven, I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Ben Singh Sowerby should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Mr Sowerby is in breach of the following standards:

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

The panel finds that the conduct of Mr Sowerby fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty and lack of integrity in connection with multiple untruths, both in the application which Mr Sowerby provided to CT School in February 2019 and in his comments to parents whilst employed at CT School later that year.

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 Mr Sowerby and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. "The panel considered the consequences of Mr Sowerby's actions to have been serious. The CT School, which taught vulnerable pupils, was not given the correct reference information about a teacher it went on to employ." The panel also observed "Having considered all the evidence before it during the course of the hearing, including all the mitigating factors set out below, the panel considered that the risk of Mr Sowerby repeating his actions was significant." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel accepted that Mr Sowerby acknowledges that he made mistakes. The panel's view, having had the benefit of hearing his evidence, was that it was not persuaded of the extent of his remorse." In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour, and this puts at risk the future wellbeing of pupils'. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. I have noted that, "The panel considered that Mr Sowerby's proven actions would be likely to bring the teaching profession into dispute, in that public confidence in the profession would be damaged by a finding that a teacher had dishonestly provided incorrect information on their application form."

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 Mr Sowerby himself. A prohibition order would prevent him from teaching and would also deprive the public of his 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 severity of the dishonesty, "The severity of the dishonesty and lack of integrity was at the serious end of the spectrum. The panel considered there was a strong chance of repetition of such misconduct, given there had been a series of acts of dishonesty over a period of time."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Sowerby has made to the profession. In my view, it is necessary to impose a prohibition 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 or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 5 year review period.

I have considered the panel's comments "Mr Sowerby had been consistently dishonest. This was not a one off instance of dishonesty. His misconduct was consistent and deliberate with the purpose of securing benefit for himself."

I have considered whether a 5 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a shorter review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the period of time and the lack of either insight or remorse.

I consider therefore that a 5 year review period is required to satisfy the maintenance of public confidence in the profession

This means that Mr Ben Singh Sowerby is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 9 April 2027, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Sowerby remains prohibited from teaching indefinitely.

Mr Sowerby has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink that reads "John Knowles". The signature is written in a cursive, flowing style.

Decision maker: John Knowles

Date: 06 April 2022

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