



Teaching
Regulation
Agency

Mrs Naheed Parveen Earl: Professional conduct panel outcome

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

April 2019

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

Teacher: Mrs Naheed Parveen Earl
Teacher ref number: 9564853
Teacher date of birth: 24/9/1971
TRA reference: 16743
Date of determination: 18 April 2019
Former employer: Lowerplace Primary School, Rochdale.

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 11 to 15 March 2019, 18 to 22 March 2019 and 16 and 18 April 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT and on 17 April 2019 at The Holiday Inn, Hinckley Road, Coventry CV2 2HP, to consider the cases of Mrs Naheed Praveen Earl, Ms Adele Honeyman, Mrs Cathryn Bolton, Ms Gail Marsh and Mrs Katy Yates.

The panel members were Mrs Kathy Thomson (former teacher panellist – in the Chair), Ms Fiona Tankard (teacher panellist) and Mr Martin Pilkington (lay panellist).

The legal advisor to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Ben Bentley of Browne Jacobson LLP solicitors.

Mrs Naheed Parveen Earl was present from 11 to 14 March 2019 and was represented by Mr David Swinnerton of Counsel until 19 March 2019. Thereafter, Mrs Earl was not present and not represented.

Ms Adele Honeyman was present on 11 to 15 March 2019 and 17 April 2019 and was represented throughout the hearing by Mr Philip Dayle of Counsel.

Mrs Cathryn Bolton was present and was represented by Miss Gurpreet Rheel of Counsel.

Ms Gail Marsh was not present and was not represented.

Mrs Katy Yates was present and was represented by Mr Jonathan Storey of Counsel.

Save that part of the evidence of Mrs Katy Yates was heard in private, the hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in Notices of Proceedings dated 31 May 2018 addressed to Mrs Naheed Parveen Earl, Ms Adele Honeyman, Mrs Cathryn Bolton, Ms Gail Marsh and Mrs Katy Yates.

In respect of Mrs Naheed Parveen Earl:

It was alleged that Mrs Naheed Parveen Earl was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as the Headteacher of Lowerplace Primary School she:

1. Between 9 May and 12 May 2016, engaged in and/or instructed one or more members of staff to engage in the maladministration of one or more of the Year 6, National Curriculum SATs papers;
2. Failed to disclose her conduct and/or the conduct of others in the first instance.
3. Her conduct as set out at allegations 1 and/or 2 was dishonest.

Mrs Earl denied the facts alleged in allegations 1, 2 and 3.

C. Preliminary applications

As to whether the hearing should proceed in the absence of Ms Gail Marsh

Ms Marsh was not present and not represented. After hearing submissions from the presenting officer and receiving legal advice, the Chair announced the decision of the panel as follows:

The panel has decided that the hearing should proceed in the absence of Ms Marsh for the following reasons:

- The Notice of Proceedings has been served in accordance with paragraph 4.11 of the disciplinary procedures.
- The panel has received written confirmation from Ms Marsh's union representative that Ms Marsh will not be attending the hearing and that she is content for the hearing to proceed in her absence. The panel is satisfied that Ms Marsh has voluntarily waived her right to be present.
- There is no application for an adjournment and there would be no purpose in adjourning.

- Although the panel will not have the benefit of hearing from Ms Marsh in person, the panel has received a statement of agreed facts and other documents and submissions on behalf of Ms Marsh, which the panel will take into consideration.
- It would be contrary to the interests of witnesses, the other teachers and the public interest for the hearing to be adjourned.

As to whether part of the hearing should take place in private

Mr Storey made an application on behalf of Mrs Yates for part of the evidence of Mrs Yates to be given in private. The presenting officer did not object to the application. After receiving legal advice, the Chair announced the decision of the panel as follows:

The panel has considered the application by Mr Storey on behalf of Mrs Yates for part of the evidence of Mrs Yates concerning her health to be heard in private. The panel is satisfied that, in respect of this part of the evidence of Mrs Yates, the public interest in the hearing taking place in public is outweighed by the teacher's right of privacy. Accordingly, although the remainder of the hearing will take place in public, the panel will hear this limited part of the evidence of Mrs Yates in private.

The panel is aware that other teachers have referred to health matters in their written evidence and the panel is content to adopt a similar approach in relation to their evidence.

As to the absence of Mrs Earl on 15 March 2019

On 15 March 2019 (Day 5 of the hearing) Mrs Earl was not present. Mr Swinnerton explained to the panel that he had been informed by his instructing solicitors that Individual C, [redacted] was due to see his GP that day. Mr Swinnerton stated that Mrs Earl returned home on the 14 March to be with Individual C. Mr Swinnerton stated that Mrs Earl had informed his instructing solicitors that she was content for the hearing to proceed without her and would not be returning the following week. Mr Swinnerton confirmed that he had the instructions necessary to complete his cross-examination of Ms Honeyman on 15 March, but that an attempt would be made to clarify Mrs Earl's position regarding attending the hearing the following week. After hearing submissions from the other parties and receiving legal advice, the Chair announced the decision of the panel as follows:

Mr Swinnerton has explained that Mrs Earl is unable to be here today due to Individual C's health. Mr Swinnerton has confirmed that Mrs Earl is content for the hearing to proceed in her absence and that she will not be attending the hearing today or next week. Mr Swinnerton has helpfully confirmed that he has instructions from Mrs Earl which enable him to complete his questioning of Ms Honeyman today, but he would like to clarify Mrs Earl's instructions in terms of her attendance at the hearing after today.

The panel is conscious that Ms Honeyman is not able to attend the hearing next week, and all of the parties agree that her evidence should be concluded today. In the light of Mr Swinnerton's confirmation that he is able to complete his questioning of Ms Honeyman, the panel is satisfied that it is appropriate to proceed with the hearing today to the conclusion of Ms Honeyman's evidence. The panel has decided that the hearing will then be adjourned until Monday. This will also avoid Mrs Bolton's having to start her evidence today and remain on oath over the weekend.

Mr Swinnerton has confirmed that he will update the panel as to Mrs Earl's position on Monday morning. If there is to be an application for an adjournment on behalf of Mrs Earl, the panel expects to be provided with appropriate evidence in support of such an application.

As to whether the hearing should proceed in the absence of Mrs Earl

On 19 March 2019 (Day 7 of the hearing) Mr Swinnerton provided the panel with copies of emails from Mrs Earl dated 15 and 19 March 2019 to Mr Swinnerton's instructing solicitors and a copy of a medical certificate relating to Individual C dated 15 March 2019. In her email dated 15 March 2019, Mrs Earl stated:

'I have had to leave Coventry last night and return home [redacted]. The proceedings of this week have taken their toll on me and with Individual C's current health I have made the difficult decision to not attend the rest of the hearing. I hope that my counsel can continue to represent me in my absence and I confirm that I do not wish the hearing to be adjourned or rearranged in my absence but will rely on my statement and the evidence submitted.'

Mr Swinnerton informed the panel that, since Friday 15 March, his instructing solicitors has endeavoured to clarify whether Mrs Earl would attend the hearing this week. Mr Swinnerton had also been awaiting clarification as to whether Mrs Earl's union would continue to fund her representation if Mrs Earl did not attend. Mr Swinnerton stated that Mrs Earl had reiterated that she would not be attending the hearing and her union had confirmed that, in these circumstances, the funding of her representation would not continue. In her email dated 19 March 2019, Mrs Earl stated:

'Please find Individual C's sick note. I left the hearing on Thursday 14th due Individual C [redacted]. Unfortunately, I cannot attend the rest of the hearing. I agree with you that counsel does not have to attend the remainder of the hearing but instruct counsel to forward the attached documents on my behalf to support the statement that I have already submitted.'

The panel reviewed the sick note from his general practitioner, which stated that Individual C was assessed on 15 March 2019 and found to be [redacted]. Mr Swinnerton confirmed that Mrs Earl had voluntarily waived her right to attend the hearing and that he had not been instructed to make an application for an adjournment on her behalf. In

relation to the other documents referred to in Mrs Earl's email of 19 March 2019, Mr Swinnerton confirmed that copies of the documents had been provided to Mr Bentley. Mr Bentley stated that he would provide copies of the documents to the other parties in order that submissions could be made the following day as to their relevance before the panel determined whether some or all of the documents should be admitted.

After hearing submissions from the other parties and receiving legal advice, the Chair announced the decision of the panel as follows:

The panel has given careful consideration to the fact that Mrs Earl is not present and will no longer be represented at this hearing. The panel has decided that the hearing should continue in the absence of Mrs Earl for the following reasons:

1. Mrs Earl has confirmed in her emails dated 15 and 19 March 2019 that she will not be attending the hearing. The panel understands why Mrs Earl felt unable to attend the hearing on Friday 15 March 2019; it is not submitted that her continued absence is due to Individual C's ill-health. The panel is satisfied that Mrs Earl has voluntarily waived her right to attend the hearing.
2. Despite Mrs Earl's being aware of her ability to apply for an adjournment, Mr Swinnerton has confirmed that he is not instructed to apply for one on her behalf. Indeed, Mrs Earl has requested that the hearing should proceed in her absence.
3. Although Mrs Earl expressed the wish in her email of 15 March 2019 that Mr Swinnerton should continue to represent her in her absence, Mr Swinnerton has confirmed that Mrs Earl has been informed that her union will not continue to fund her representation in her absence. In her email of 19 March 2019, Mrs Earl confirmed that she is aware that Mr Swinnerton cannot continue to represent her in these circumstances.
4. Although the panel will not have the benefit of hearing from Mrs Earl in person, the panel will be able to consider her written statement and documents in the bundle submitted on her behalf. The panel will also consider whether any of the additional documents referred to in Mrs Earl's email of 19 March 2019 should be admitted on grounds of relevance and fairness.
5. This hearing has now reached its eighth day and the panel has heard evidence from the TRA's witnesses and from two of the five teachers involved in this hearing. It would be contrary to the interests of the other teachers and the public for the hearing to be adjourned.

As to whether additional documents should be admitted

On 20 March 2019 (Day 8 of the hearing) the panel considered whether any of the documents referred to in the email of 19 March 2019 from Mrs Earl should be admitted.

After hearing submissions from the parties and receiving legal advice, the Chair announced the decision of the panel as follows:

The panel has considered the application by Mrs Earl for the admission of documents referred to in her email of 19 March 2019. Having considered the documents carefully, Mr Swinnerton submitted that these documents are not materially relevant. No application was made on behalf of Mrs Earl at the outset of the hearing despite the documents' being available at that time. The panel has considered submissions by Mr Bentley, Miss Rheel, Mr Storey and Mr Dayle objecting to the admission of these documents on the basis that the documents are not materially relevant and that it would be unfair to admit them.

The panel has taken into account the stage of the proceedings at which the application is made. The TRA's witnesses, Ms Honeyman and Mrs Bolton have completed their evidence. The panel has also taken into account the fact that one of the documents relates directly to Ms Marsh; she has decided not to attend the hearing and has not been served with these documents nor had an opportunity to comment upon them. Taking all of these considerations into account, the panel has decided not to admit these additional documents.

D. 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 5

Section 2: Notice of Proceedings and Response – pages 7 to 45

Section 3: Statement of Agreed and Disputed Facts – pages 47 to 60

Section 4: Teaching Regulation Agency witness statements – pages 61 to 72

Section 5: Teaching Regulation Agency documents – pages 74 to 625

Section 6: Naheed Parveen Earl documents – pages 627 to 713

Section 7: Adele Honeyman documents – no documents

Section 8: Cathryn Bolton documents – pages 716 to 799kk

Section 9: Katy Yates documents – pages 801 to 909

Section 10: Gail Marsh documents – pages 911 to 923E

The panel members confirmed that they had read all of the above documents in advance of the hearing.

In addition, the panel agreed to accept the following documents, which the panel read on the first day of the hearing before the opening statements of the parties:

- Character references on behalf of Mrs Naheed Parveen Earl from Individual A, Individual B and Individual C, which were added to section 6 of the bundle as pages 713A to 713E
- Witness statement of Ms Adele Honeyman dated 20 February 2019 and character references of Individual D and Individual E, which were added to Section 7 of the bundle as pages 714A to 714P
- Additional documents submitted on behalf of Mrs Cathryn Bolton, namely timetable of 2015 SATs and planning tables for 2013, 2014 and 2015, which were added to section 8 of the bundle as pages 799A to 799kk
- Written submissions from NASUWT on behalf of Ms Gail Marsh, which were added to Section 10 of the bundle as pages 923A to 923E

The panel agreed to accept the following documents on the third day of the hearing:

- Administration instructions for Key Stage 2 examinations on 9 and 10 May 2017 in respect of English reading, English grammar papers 1 and 2, Mathematics papers 1, 2 and 3, which were added to the bundle as pages 924A to 924 BB.

The panel agreed to accept the following document on the eighth day of the hearing:

- Lesson observation of Mrs Katy Yates dated 2 July 2015, which was added to the bundle as page 713F.

The panel agreed to accept the following document on the tenth day of the hearing:

- A letter from Mrs Cathryn Bolton (undated) which referred to her interview on 18 May 2016, which was added to the bundle as page 799LL.

Witnesses

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

- Witness A, Teaching Assistant, Lowerplace Primary School ('the School')
- Witness B, former Teaching Assistant, Lowerplace Primary School

In addition, the panel heard oral evidence from the following:

- Ms Adele Honeyman, former Deputy Headteacher at the School

- Mrs Cathryn Bolton, former Deputy Headteacher at the School
- Ms Katy Yates, former Teacher at the School

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the cases before it and reached a decision by reference to each teacher.

The panel confirmed that it had read all of the documents provided in the bundle in advance of the hearing and all of the additional documents admitted during the course of the hearing.

Lowerplace Primary School ('the School') is a school for pupils aged 4 to 11.

Between Monday 9 May 2016 and Thursday 12 May 2016, Year 6 pupils were required to undertake national curriculum Key Stage 2 tests known as Standardised Assessment Tests ('SATs') in English and mathematics.

On 16 May 2016, the Standards and Testing Agency ('STA') advised Individual F, the Rochdale Local Authority School Improvement Officer, that an allegation had been received that pupils had been over-aided in their SATs. The STA requested that a fact-finding exercise be conducted at the School.

On 18 May 2016, Individual F visited the School and interviewed a number of members of staff. This included the five teachers who are the subject of these proceedings. In addition, Witness A and Witness B, both of whom are teaching assistants, were interviewed.

On 19 May 2016, Mrs Earl was suspended pending a disciplinary investigation.

Between 23 and 27 May 2016 the Local Authority received statements from Ms Honeyman, Mrs Bolton, Mrs Yates and Ms Marsh via their trade union representatives. The statements rescinded the accounts given by the teachers when interviewed on 18 May 2016 and acknowledged that maladministration had taken place.

Ms Honeyman, Mrs Bolton, Mrs Yates and Ms Marsh were all subsequently suspended pending a disciplinary investigation.

On 29 June 2016 the STA notified the School that a decision had been taken to annul all of the Key Stage 2 SATs results. This decision was based on a review of the findings from the Local Authority's investigations and a review of the children's test papers.

During this hearing, the panel heard oral evidence from Witness A, Teaching Assistant, whom the panel regarded as a credible and clear witness. The panel also heard oral evidence from Witness B who was a Teaching Assistant at the School at the time of the SATs. The panel regarded Witness B as a credible witness, although there were a number of areas in which Witness B was unable to recall precise details.

In addition, the panel heard oral evidence from Ms Honeyman, Mrs Bolton and Mrs Yates and considered written evidence from Mrs Earl and Ms Marsh. In determining the allegations in relation to each teacher, the panel considered the alleged role of each teacher separately, but took into account all of the evidence presented. Where that evidence was given by one of the other teachers, the panel had regard to the fact that the teacher concerned might have their own interest to serve.

The panel found Mrs Bolton to be a credible and persuasive witness. Mrs Bolton did not seek to minimise her own wrongdoing or exaggerate that of others. Mrs Bolton stated that, when she went on sick leave on or about 24 May 2016, she wrote detailed notes of what happened on each of the days of the SATs when the events were still reasonably fresh in her mind. Mrs Bolton produced the notes that she had made and gave evidence by reference to them, which assisted in the clarity of her evidence.

The panel accepted most of the evidence of Ms Honeyman and Mrs Yates and found them largely credible. However, it recognised that there were conflicts between them and between other witnesses on some matters. The panel sought to resolve these differences by careful consideration of the documents and oral testimony, noting that the events covered by these allegations occurred nearly three years ago and acknowledging that the passage of time has an inevitable impact on witnesses' recollection.

There were a number of matters on which it would have been helpful to the panel to have heard from Mrs Earl. These included her assertion in her witness statement that Mrs Yates, Mrs Bolton, Ms Honeyman and Ms Marsh had colluded and sought to shift blame on to her. Furthermore, in the disciplinary investigation, Mrs Earl had asserted that the Local Authority's investigation had been biased against her and '*motivated by racial discrimination*'. It was a matter of considerable regret that the panel did not hear oral evidence from Mrs Earl on these and other matters.

Before referring to the findings made in relation to each teacher, the panel determined that it should set out the panel's findings of fact that were relevant to all five teachers.

The first allegation against all five teachers related to their alleged involvement in maladministration. In considering whether maladministration took place, the panel had regard to the definition in section 7.1 of the 2016 Assessment and Reporting Arrangements (ARA) which refers to any act that:

- affects the integrity, security or confidentiality of the national curriculum assessments

- could lead to results that don't reflect pupils' unaided work

The third allegation against all five teachers was that their conduct in the first and/or second allegation was dishonest. In determining whether any proven conduct was dishonest, the panel considered each teacher's state of knowledge or belief as to the facts before determining whether her conduct was dishonest by the standards of ordinary decent people.

Findings of fact

Events prior to the SATs

Mrs Bolton stated that, on Tuesday 3 May 2016, she was in a meeting in which Mrs Earl drew up lists of groups of pupils and highlighted children to 'target' during the forthcoming SATs. Mrs Yates also stated that on 3 May 2016, she and Ms Marsh were summoned to Mrs Earl's office when Mrs Earl stated, *'Cath and I have put the children into groups based around their results on the previous test results.'* The panel was presented with copies of the lists and noted that they were prepared based on the ability of pupils in individual subjects so that different borderline pupils were highlighted for different subjects. The panel did not, therefore, accept Mrs Earl's assertion that the targeted children were those with concentration and behaviour issues. The lists identified the classroom in which each group of pupils would be located and the initials of the staff members who would be in each room.

On or about the same day, Witness A became upset when he was made aware that he would not be involved in the SATs. Witness A then approached Mrs Earl. Following this, Mrs Earl sent an email to unknown members of staff to the effect that Mrs Earl was happy for Witness A to *'be the 1:1'* for a named pupil.

Mrs Yates stated that, on Friday 6 May 2016, she and Witness A set out the rooms for the tests that were due to start on Monday 9 May 2016, using the lists prepared by Mrs Earl. Mrs Yates stated that, at the end of the day, Mrs Earl checked that the rooms had been set out correctly. Mrs Yates stated that, on entering the new classrooms, Mrs Earl pointed to the clock on the wall and asked, *'What on earth is that still doing on the wall? The children are not allowed to know what time it is during the tests.'* Mrs Yates stated that Mrs Earl then took the clock off the wall and placed it to the side of the room.

On the same day, at 23:52, Mrs Earl sent an email to Mrs Bolton, a copy of which was presented to the panel. In this email, Mrs Earl stated, *'I'm still a bit worried about having Carol so should we go into the new classrooms and you, me and Adele be in room 1? The other rooms as planned. We can then get round them. What do you think?'*

On Sunday 8 May 2016 at 20:57, Mrs Earl sent an email to Ms Yates (which was copied to Mrs Bolton and Ms Honeyman). In this email, Mrs Earl stated, *'I think we might stick to the two new classrooms for your group and put mine and Cath's together in the other one. Then Witness A and Witness B can go in your room with the 4 pupils... Will Witness*

A be ok with [named pupil]? What is the extra time he can have? Does Witness A know what to do with [named pupil]?'

The SATs

The English reading test took place on Monday 9 May 2019. On the School's SATs timetable this was scheduled to take place at some time between 08:50 and 10:40. At approximately 08:50 the Local Authority moderator arrived at the School. (The moderator's role was to check that the School was correctly following the SATs guidance.) At approximately 09:30, Mrs Bolton, Ms Honeyman and Mrs Earl were in intervention room 1 with the moderator and a group of pupils. At the same time, Mrs Yates and Ms Marsh were with another group of pupils in intervention room 2 and Witness A and Witness B were with four pupils in classroom 6B. The test commenced with the moderator present in intervention room 1. Mrs Bolton and Ms Honeyman stated that, when the moderator left the room followed by Mrs Earl, Mrs Earl leant back into the room and, out of the hearing of the moderator, told them to *'go, get round them now'*. Mrs Bolton and Ms Honeyman both stated that they thought that Mrs Earl was instructing them to help the pupils with their answers, but both stated that they did not act on this instruction at that time. Mrs Earl stated that she did not recall saying this, but that, if she had, *'it was because our children often find the tests distressing and this was a new year of testing and I would have meant "Check if they are all OK".'*

Mrs Yates stated that, later the same day, after the English reading test papers had been collected, Mrs Earl stated, *'Expect our reading results to take a nose-dive this year, so we need to make sure that the other results do not do the same... We have been moderated now so we will be left alone for the rest of the tests.'*

The panel noted that when the moderator was present, although the test papers were opened in the area outside the classrooms, (so not in the direct presence of the children), they were distributed to the children immediately and no teacher started to complete the test papers; an entirely different process was followed on subsequent days when the moderator was not in attendance. On subsequent days, the papers were opened in Mrs Earl's office some time before the distribution of the papers.

On 10 May 2016 the SPaG test (English spelling, punctuation and grammar) paper 1 was scheduled to take place between 08:50 and 10:40. Both Mrs Bolton and Ms Honeyman stated in their evidence that they were present in Mrs Earl's room when Mrs Earl opened the test paper before the start of the test. In her statement, Mrs Earl said, *'I did not open any test papers in my office.'* The panel preferred the evidence of Mrs Bolton and Ms Honeyman.

The panel noted that the administration instructions accompanying the test papers state: *'This pack must be kept secure and unopened until the start of the test on Tuesday 10 May 2016. Early opening up to 1 hour before the test starts is permissible only if access to the contents is needed to make adaptations to meet individual pupils' needs.'* The

panel was not presented with any evidence to suggest that the test papers were opened in order to make adaptations. Indeed, Ms Honeyman and Mrs Bolton both stated that Mrs Earl started to complete the test paper before leaving her room.

Mrs Bolton stated that she went to intervention room 1 with Ms Honeyman. Mrs Earl was also present, although Mrs Bolton stated that Mrs Earl went out of the room on occasions. Mrs Bolton stated that there was no clock in the room and no start and finish times were displayed. Mrs Bolton stated that the test was allowed to continue until morning break time, for which the bell sounded at 10:45. Mrs Bolton stated that she noted that one of the pupils was wearing a watch and she warned Mrs Earl that she needed to be careful as the pupil might be aware of the additional time being given and tell his parents. Mrs Bolton stated that Mrs Earl replied that she did not get on with the pupil's parents and that, if anything was said, she (Mrs Earl) would '*win*'. Mrs Bolton also stated in her evidence that when pupils had been doing practice tests they had not been given the same length of time, nor had they been prompted to '*check that, have another look, read that again*' as they were during the SPaG test. Mrs Bolton also stated that she advised Mrs Earl that there might be a discrepancy in the results of the pupils in reading and SPaG, in view of the additional time given for the latter. Mrs Bolton's evidence was that Mrs Earl said in response, '*Ofsted will find reading a priority for us then,*' or words to that effect.

Mrs Yates stated that she and Ms Marsh were in intervention room 2 for the SPaG test. Mrs Yates stated that Mrs Earl came into the room and told her to '*ensure that the start time was not written on the board until I tell you*'. Mrs Yates also said that she and Ms Marsh were instructed by Mrs Earl that, if a pupil made a mistake, they should ask the pupil to '*read the question carefully*' or to '*just check that one*'. This account by Mrs Yates was also confirmed by Ms Marsh when interviewed as part of the School's disciplinary investigation. Mrs Yates and Ms Marsh also stated that Mrs Earl came back into the room at the end of the allotted time and instructed that they give extra time. Both Mrs Yates and Ms Marsh stated that the pupils in intervention room 2 had already finished the test by that point. Mrs Yates stated that Mrs Earl said in response, '*Oh ours are going to need a lot more time so you will just have to wait.*' In her statement, Mrs Earl said, '*I did not control the timings of the tests and did not give the staff instruction to give the pupils extra time. I could not control the times of every test as I was not in every room and did not administer all the tests.*' The panel preferred the evidence of Mrs Yates and Ms Marsh.

Mrs Yates stated that, during the break time, she was summoned to Mrs Earl's office where Mrs Bolton and Ms Honeyman were present. Mrs Earl then instructed Mrs Yates to, '*go and get [a named pupil] immediately and go with Adele and give him extra time as his answers are shocking. Witness A clearly hasn't done his job properly and read the questions to him.*' Mrs Yates explained that the pupil concerned was one of the four pupils who had been in classroom 6B with Witness A and Witness B. Mrs Yates stated

that she retrieved the pupil from the playground and took him to the old library and that Ms Honeyman then arrived with his paper.

Mrs Bolton stated in her evidence that Mrs Yates was made to take the pupil concerned to the library as Mrs Earl said that *'he had to pass'*.

In her written statement, Mrs Earl denied instructing Mrs Yates to retrieve the child from the playground to give him extra time. Mrs Earl stated, *'I recall Katy mentioned that the support provided by the 1:1 teaching assistant ... had not been of the standard that she had hoped. I did not, directly or indirectly, communicate to her that she needed to review his paper with him. If she did so, then it was a decision she made independently. At the end of each test, all of the test papers were present when they were collated and put in alphabetical order.'* Had Mrs Earl given evidence at this hearing, the panel would have asked her how it would have been possible for the pupil concerned to have been given more time without being provided with the paper that she claimed had been collected. The panel was satisfied that Mrs Earl instructed Mrs Yates to take the pupil concerned to the library to give him extra time.

In her written statement, Mrs Yates stated, *'Adele then sat down with the boy and went through every question in the test, asking quite pointed questions and overemphasising certain answers'*.

In cross-examination, Mrs Yates stated that she had *'a clear recollection of this and it has always been etched on my memory.'*

In her oral evidence, Mrs Yates stated that when she was in the library with the pupil, Ms Honeyman read the questions and was saying to the pupil things like, *'Do you really think that this is the right answer? No? Then let's have another go.'* Mrs Yates stated that the pupil was severely autistic and that he kept looking at her for reassurance and all that she could do was smile at him. However, the panel was concerned that this clear memory had not been mentioned in her statement dated 10 June 2016, in her supplementary statement or in her disciplinary interview on 10 June 2016.

Ms Honeyman denied that she was involved in going through the test paper with this pupil and stated that her only involvement was to go and collect Mrs Yates and the pupil at the request of Mrs Earl as they had been gone for such a long time. In cross-examination by Mr Storey, Ms Honeyman said that when she went into the room, she heard Mrs Yates *'just reading the questions so nothing untoward was going on'*.

The contemporaneous account provided by Mrs Yates at the disciplinary interview was that the pupil had been given extra time, but that she did not read the questions and *'he wasn't given any other support other than the additional time'*. In her oral testimony, Ms Honeyman said, *'I did not go through the paper with him. I offered him no support'*. She also said, *'If I said anything to the boy, it would have been in a supportive sense as he was agitated. This was the limit of my involvement with that child.'*

There was considerable overlap between the accounts given by Mrs Yates and Ms Honeyman and the panel accepted that both had been compliant in allowing the pupil additional time in breach of the guidance. However, on balance, the panel did not accept the account of Mrs Yates in her witness statement that *'Adele then sat down with the boy and went through every question in the test, asking quite pointed questions and overemphasising certain answers'*. The panel was aware that some time had elapsed since the event in question and this might account for the disparity.

On the same day, the paper 2 SPaG test, for spelling, was scheduled to take place at some time between between 10:55 and 12:00. Witness A stated that he was in classroom 6B after break time waiting for the test to start. He stated that this was delayed by approximately 20 minutes as they were waiting for the pupil who had been taken to the library to return. He stated that Mrs Yates then arrived with the pupil. Mrs Yates stated that she was then asked by Mrs Bolton to remain in 6B with Witness A and Mrs Bolton and Witness B were sent to assist Ms Marsh. Witness A stated that during the test he observed Mrs Bolton assisting a pupil by telling the pupil to *'swap those letters around'*. Mrs Yates also stated that she observed Mrs Bolton assisting a pupil by saying, *'just check the order of those two letters'* and *'think about which type of "prey" it is'*. In her own evidence, Mrs Bolton admitted that she did say to one pupil, *'think about which prey'* and that she told Mrs Earl that she had done this.

Witness A also stated that, during this test, he heard Mrs Yates read out the word *'washable'* by emphasising *'able'*. Mrs Yates did not recall pronouncing the word in this way. The panel accepted Witness A's account. Witness B stated that she heard Ms Marsh mispronounce *'washable'* and she also stated that she heard Ms Marsh pronounce the word *'cousin'* as it was spelt. The panel noted that the administration guidance for the test stated, *'You should take care not to overemphasise spelling when reading out the words.'*

Ms Honeyman stated that she was present when Mrs Earl administered the spelling test. She stated that Mrs Earl read the more challenging words *'phonetically'*. In her oral evidence, Ms Honeyman gave the example of Mrs Earl pronouncing the word *'previous'* as *'pre-vi-ous'* by emphasising the syllables. Ms Honeyman stated that she was then asked by Mrs Earl to support the pupils at one end of the room, some of whom were struggling. Ms Honeyman stated that she *'helped the children by repeating the word to the children one to one for those children who were behind. Most children, because of the way [Mrs Earl] read the spellings, did not require any support'*. In her statement, Mrs Earl said, *'I read the words out in line with test procedure and did not read out the words phonetically or emphasise any parts of the words in an attempt to assist the pupils'*. The panel preferred the account of Ms Honeyman.

Mrs Bolton also stated that all of the pupils in Key Stage 2 were late for their lunchbreak that day and that the test went on for longer than the allotted time.

On Wednesday 11 May 2016, the mathematics paper 1 was scheduled to take place between 08:50 and 10:40 with a duration of 30 minutes. Mrs Bolton stated that she telephoned Mrs Earl at approximately 09:42 that morning to tell her that she was at the home of a pupil and that she would be bringing him in for the test but that Mrs Earl should not wait for her arrival with the pupil. Mrs Bolton stated that after she brought the pupil into school, she arranged for him to have breakfast and the test was still going on after 10:30.

On the same day, mathematics paper 2 was scheduled to take place between 10:55 and 12:00 with a duration of 40 minutes. Mrs Bolton and Ms Honeyman both stated that they were present when the test papers were opened in Mrs Earl's room. Mrs Bolton stated that Mrs Earl began to write answers on one of the papers. Ms Honeyman also confirmed that answers were written on what she described as a 'teacher copy'. The panel noted that the test administration guidance states:

'Test packs should be opened in front of the pupils immediately before the administration of the tests in the room(s) where they are being administered...'

The opening of the test papers in Mrs Earl's office, without taking the papers immediately to the classrooms for distribution, was in breach of the guidance. The panel was satisfied that the writing of answers on the test papers was for the purpose of assisting the pupils.

Ms Honeyman stated that, after the test papers had been opened in Mrs Earl's office, they went to the test rooms. She stated that one of the 'teacher copies' was missing and she was concerned that this paper might have been handed out to one of the pupils. Ms Honeyman stated that she told Mrs Earl that the test should not start and that she went to the other rooms and explained to other members of staff that it was missing. She stated that the members of staff that she spoke to were Witness A, Witness B, Mrs Yates and Ms Marsh.

Mrs Yates stated that there was an occasion when Ms Honeyman came into the room in which she was located and said *'Stop. Nobody touch anything. Someone has got the golden ticket,'* or words to that effect. Witness A also referred to Ms Honeyman's coming into his examination room when the test was about to start. He stated that Ms Honeyman *'appeared frantic'* and that she made reference to someone having the *'golden ticket'*. Witness B also confirmed hearing Ms Honeyman say *'someone has got the golden ticket'*. Although Ms Honeyman admitted that she was looking for a teacher copy of the test paper, she denied ever using the term *'golden ticket'*. In the light of the evidence of Mrs Yates, Witness A and Witness B, the panel concluded that it was more likely than not that this term had been used by Ms Honeyman.

Ms Marsh was interviewed as part of the School's investigation on 24 June 2016. The interview notes record that Ms Marsh confirmed that she was given a test paper *'as the children were given theirs and that she had completed it so that she could use the*

answers to say "check that again" which was what she had been instructed to do. She confirmed that she had been given a test paper to use as an answer book for every test.'

Mrs Yates also stated that at one point during the test, Mrs Earl came into intervention room 2, where Mrs Yates and Ms Marsh were. Mrs Yates stated that Mrs Earl asked her how the children were coping. Mrs Yates responded that the pupils were coping very well. Mrs Yates stated that Mrs Earl then said that she had had to tell some of her children the answers to the questions. Mrs Yates also stated that, as Mrs Earl left intervention room 2, she told Ms Marsh to leave the papers on the table and not to collect them until Mrs Earl told them to do so. Mrs Yates stated that, at the end of the allotted time, Ms Marsh had told the pupils in their room to stop writing. However, Mrs Earl came into intervention room 2 again and said that her group of pupils needed extra time and that lunchtime would have to wait. Mrs Yates stated that she voiced her concern about the impact that this might have on the rest of the school, but that Mrs Earl said in response. *'They'll do as they're told and follow instructions. I've already told them that they are not allowed to move until I tell them.'*

On Thursday 12 May 2016, the mathematics paper 3 was scheduled to take place between 08:50 and 10:40 with a duration of 40 minutes. Mrs Bolton stated that the test paper was opened in Mrs Earl's room in advance of the test and answers were completed before the test started. Mrs Bolton also stated that, during this test, there were no clocks or timings visible and that the test went on for longer than the allotted time. Mrs Bolton also stated that Mrs Earl had her mobile phone with her during the examination and was using this to work out answers to the questions on the paper. In her statement, Mrs Earl said, *'I do not recall thinking that any of the tests took a lot longer to finish than I would have anticipated.'*

Events after the SATs

On Tuesday 17 May 2016, in accordance with the STA's instructions, Individual F telephoned Mrs Earl to inform her that a fact-finding exercise would take place the following day. Mrs Earl was asked to set up interviews with everybody involved in the administration of the SATs. Following this call, Mrs Earl arranged a meeting in her office with Mrs Bolton, Ms Honeyman, Mrs Yates, and Ms Marsh. Mrs Bolton stated that, at this meeting, Mrs Earl told them they would be interviewed and gave them a list of timings as to when the tests had taken place, although she later told the staff not to use those timings as they looked too prescribed. Mrs Earl's account was: *'I also asked the staff what times each of their tests started. As I had not administered the tests in each of the rooms, I did not have this information and assumed that the LA would probably want to know this.'* The panel did not accept Mrs Earl's account as it was inconsistent with the account in her statement that, *'The tests did not necessarily finish at the same time as they may not have started at the same time.'* If Mrs Earl had attempted to prepare a document setting out the actual times of the tests in each room, it would have shown a variation between the rooms due to different start times.

Mrs Yates stated that, at this meeting, there was discussion about the order in which they would be interviewed and that this order was chosen in terms of who would be most confident. Mrs Yates stated that she was told that she would be going last. Mrs Yates stated that Mrs Earl said to her, *'Don't you dare panic. Keep calm and think about your position and your career.'* Witness A also stated that he was summoned to Mrs Earl's room and told that he would be interviewed the following day. Witness A stated that Mrs Earl told him that she had a right to be in the meeting when he was interviewed. Witness B also stated that Mrs Earl said this to her when she was summoned to a meeting in Mrs Earl's office that day. Mrs Bolton stated that, later that evening (at approximately 21:00) she received a text from Mrs Earl asking the staff to meet the following morning to go through some questions. The panel was also provided with screenshots of text messages between Mrs Earl and Ms Honeyman in which Mrs Earl stated that she had *'written out a few q's and so wanted to go through them with us 4 x'*. In her written statement, Mrs Earl stated that, *'I did say I would be in the meetings with them but wanted to offer support if they wanted, as they had requested this... Cathryn and Katy asked me whether I could be in the room with them for support. I did not, at any time, say I had a right to be in the meetings'*.

The panel was not persuaded by Mrs Earl's account. All that was needed to prepare the staff was to advise them to answer all of the questions truthfully.

On Wednesday 18 May 2016, at approximately 08:30, a meeting took place in Mrs Earl's office with Mrs Bolton, Ms Marsh, Ms Honeyman and Mrs Yates. Mrs Yates stated that Mrs Earl had prepared a list of questions on a Post-It note. These were questions that Mrs Earl said she thought might be asked. Mrs Yates said that Mrs Earl then proceeded to instruct them as to how they should answer those questions. Mrs Yates stated that Mrs Earl said, *'We need to stick to the story and everything will be fine.'* Mrs Yates stated that Mrs Earl was expecting that she would be interviewed first and that she would then remain in the room when the investigator spoke to other members of staff. Ms Honeyman stated that Mrs Earl told them that she did not think that they had done anything out of the ordinary, but that *'obviously we would not mention the extra time'*. Witness B stated that she and Witness A were summoned to Mrs Earl's office that morning and that Mrs Earl said that they had thought of some further questions that might be asked. Witness B recalled that one of these questions was, *'Were papers opened in front of the children?'* Witness B stated that Mrs Earl said to Witness B, *'You know the answer to that question is yes as you saw it happen when the LA officer was in.'* Witness B said that she knew that this was not the case on other occasions and she asked Mrs Earl whether this was what happened every day, to which Mrs Earl responded, 'Yes.' Witness A stated that, after Witness B had left the meeting, Mrs Earl had said to him that, on one of the previous days, he had left SATs papers in the classroom. Witness A stated that Mrs Earl said that he would not want the investigator *'finding out'*. Witness A considered this to be a threat and a warning.

Later the same day, Individual F and a colleague visited the School and interviewed a number of members of staff. This included the five teachers who are the subject of these proceedings and Witness A and Witness B. The report prepared following the interviews stated that the five teachers *'gave near-identical answers'*. In contrast, the two teaching assistants *'made a series of serious allegations regarding the school's preparation for and administration of, the Key Stage 2 tests 2016'*.

On 19 May 2016, Mrs Bolton was off sick with a migraine. At 09:30, Mrs Earl was suspended and escorted off-site. One of the terms of her suspension was that she should not contact other members of staff. Mrs Bolton stated that Mrs Earl arrived at her home at approximately 11:00 the same day. During the conversation that followed, Mrs Bolton stated that Mrs Earl told her that it would *'be fine if we stick to our story'*.

In her written statement, Mrs Earl said, *'After the LA meetings, I went to Cathryn's house as her husband had rang (sic) me earlier that day to say that she was in "a bad state". I went to see how she was'*. The panel had sight of a statement from Mrs Bolton's husband in which he said, *'At no point did I request or suggest that she visit Cath, or go into detail of Cath's state of mind. I asked to be contacted should she require anything.'* The panel did not conclude that this was intended to be a supportive visit.

On Friday 20 March 2016, Ms Marsh provided a written statement to the Local Authority admitting that maladministration had taken place.

On Sunday 22 May 2016, at 15:19, Mrs Bolton sent a text message to Mrs Earl. The panel was provided with a screenshot of the text message in which Mrs Bolton stated:

'I know that I shouldn't send this but I just feel it's fair to tell you that I've decided to tell the truth as I've not been able to live with myself this week.'

Mrs Earl responded immediately at 15:19 saying, *'Can I chat to you?'* The screenshot of Mrs Bolton's phone showed that Mrs Earl then tried to ring Mrs Bolton at 15:26 and 15:33, but Mrs Bolton did not answer. The panel noted that Mrs Earl then sent a further message to Mrs Bolton at 15:36 in which Mrs Earl stated:

'I understand where you're coming from. I'd just like to know what you're going to say. I know it's hard and I've thought of nothing else. I have some further info that should make you feel a bit better so do ring if ur up to it. I do believe it will blow over as there is no factual evidence and I don't think they'll speak to you again.'

On Monday 23 May 2016, Mrs Yates provided a written statement to the Local Authority admitting that maladministration had taken place.

On Tuesday 24 May 2016, Mrs Bolton provided a written statement to the Local Authority admitting that maladministration had taken place.

On Thursday 26 May 2016, Ms Honeyman provided a written statement to the Local Authority admitting that maladministration had taken place.

In respect of Mrs Naheed Parveen Earl:

It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as the Headteacher of Lowerplace Primary School you:

- 1. Between 9 May and 12 May 2016, engaged in and/or instructed one or more members of staff to engage in the maladministration of one or more of the Year 6, National Curriculum SATs papers;**

Mrs Earl denied all of the allegations against her.

In determining the allegations against Mrs Earl, the panel gave careful consideration to the submission by Mr Bentley that the panel should draw an adverse inference from Mrs Earl's decision not to give evidence at this hearing. The panel concluded that it was appropriate to draw an adverse inference for the following reasons:

1. The TRA's case called for an answer from Mrs Earl. There was a public expectation that a professional person faced with such serious allegations would give an account of her actions.
2. Although Mrs Earl had provided a written statement for consideration by the panel, there were a number of matters not covered by her statement and questions that the panel would like to have asked her. Mrs Earl was present for the first four days of the hearing when the TRA's case was presented, to hear the case against her. The panel concluded that the only sensible explanation for Mrs Earl's not giving evidence was that she had no answer to the allegations against her, or none that would bear examination.
3. It would not be unfair in all of the circumstances of this case for such an inference to be drawn. In reaching this conclusion, the panel took into account the fact that no notice was given to Mrs Earl warning her that an adverse inference might be drawn. However, Mrs Earl was represented until the seventh day of the hearing, during which time the TRA's witnesses and two of the teachers were cross-examined by her counsel. Mrs Earl also had the benefit of legal advice as to the consequences of her not returning to the hearing to give evidence.

Taking all of these circumstances into account, the panel concluded that it was fair for an adverse inference to be drawn.

Having decided that it was appropriate for an adverse inference to be drawn, the panel nonetheless accepted the legal advice that the allegations against Mrs Earl should not be found proved only, or mainly, because she did not give evidence. Instead, the panel took into account Mrs Earl's failure to give evidence as additional support for the TRA's case and

when considering whether Mrs Earl's written evidence in response to the allegations against her was true.

The factual findings made by the panel confirmed that there was significant maladministration in the conduct of the SATs. Mrs Earl denied that she engaged in or instructed any member of staff to engage in maladministration. Mrs Earl asserted in her written statement that, in the build-up to the SATs in 2016, she was involved '*in a strategic capacity only*'. Mrs Earl also referred to the fact that she had had an operation on her foot on 21 March 2016 and that she did not return to the School until 11 April 2016. However, the panel found that Mrs Earl was responsible for preparing lists of pupils that placed them into different groups according to their ability in different subjects. Furthermore, Mrs Earl sent emails late at night on 6 and 8 May 2016 about the rooms in which the groups of pupils would be located and the staff who would be allocated to each group. These were clearly operational rather than strategic issues, with which Mrs Earl was directly involved.

In her written statement, Mrs Earl also stated that she believed that Mrs Yates, Mrs Bolton, Ms Honeyman and Ms Marsh '*colluded and fabricated their accounts in an attempt to shift blame on to [Mrs Earl]*'. In support of this assertion, Mrs Earl referred to the fact that the other teachers remained employed at the school after her suspension, which provided the opportunity for the other teachers to collaborate with each other. The panel was mindful of the potential for such collaboration when assessing the credibility of the evidence given by the other teachers. The panel noted that there were inconsistencies between the accounts of some of the witnesses and, in the circumstances of this case, decided that these militated against Mrs Earl's assertion of collusion.

The panel was satisfied by the evidence presented that Mrs Earl engaged in maladministration and instructed other members of staff to do so.

Examples of Mrs Earl's personal engagement in maladministration include:

- preparing lists of pupils that placed them into different groups according to their ability in different subjects
- opening test papers in her office and not immediately distributing them to pupils
- completing test papers for use in assisting pupils during tests
- overemphasising when reading out words during the spelling test
- allowing pupils extra time.

Examples of Mrs Earl's instruction of others to engage in maladministration include:

- directing that a clock be taken down in the examination room
- giving instructions that pupils be allowed extra time
- instructing staff to complete papers for use in assisting pupils during tests
- instructing staff to give inappropriate assistance to pupils.

In her written statement, Mrs Earl stated, *'I do not accept that I bullied or intimidated staff either before or after the SATs.'* However, the panel heard evidence from a number of witnesses about alleged intimidatory behaviour on the part of Mrs Earl. In addition to the testimony of witnesses, the panel was presented with copies of emails sent by Mrs Earl to Mrs Yates.

On Friday 27 March 2015 at 20:45, Mrs Earl sent an email to Mrs Yates in which she said:

'Good evening. It has been decided that the support that you have been providing Witness A as an NQT had been less than satisfactory. I have been informed that no meetings have taken place and that he does not have a current action plan. Therefore Individual D will be taking over his induction with immediate effect and she will be training Adele so that she can take on her role next year. I am extremely disappointed that it has come to this as I expected more from you. You have let yourself down and it will not be tolerated in the future.'

Another email sent by Mrs Earl at 13:35 on Friday 18 December 2015 (the last day of term before the Christmas holiday) stated:

'Individual D has been to see me to inform me that you were less than enthusiastic during your meeting at lunchtime. You need to remember that you are a middle leader and as such your actions reflect negatively on the wider SLT. We will not have this conversation again. As a result of the meeting this lunchtime I will be monitoring your attitude and enthusiasm for the role in which you play.'

Mrs Earl sent a further email to Mrs Yates the same day at 22:45 in which she stated:

'I think it might be a good idea for you to reflect on the "progress" you have made this half term and we can meet after Christmas if you like. Hope this makes sense to you. Have a good holiday.'

Another email was sent by Mrs Earl to Mrs Yates at 21:45 on Sunday 24 January 2016. In the email Mrs Earl stated:

'I have attached the Y6 data sheet for you to fill in from the tests that were completed this last week. We will meet tomorrow before school to discuss the results. Make sure that this has been completed before then and any analysis completed also. I do not need to remind you of the need to meet the deadlines and the impact that failure to do so would have.'

These emails, some of which were sent very late at night or on the last day of term, were of a bullying or threatening nature and contradicted Mrs Earl's assertion that she did not bully or intimidate staff.

Taking into account all of the evidence presented, the panel was satisfied that the maladministration of the SATs was orchestrated by Mrs Earl.

The panel found allegation 1 proved.

2. Failed to disclose your conduct and/or the conduct of others in the first instance;

Mrs Earl failed to disclose her conduct, or the conduct of others, during the visit by Individual D on behalf of the STA on 18 May 2016 or on any other subsequent occasion when interviewed as part of the School's investigation. Indeed, in her written statement for these proceedings, whilst Mrs Earl has acknowledged that, as Headteacher, she was responsible for the integrity of the examinations, she continued to assert that she had delegated this responsibility to the Deputy Headteacher and continued to deny any involvement in maladministration.

In her written statement, Mrs Earl denied that she told anyone what to say in the interviews on 18 May 2016. Mrs Earl also denied saying that she had a right to be in the meetings and stated that she had been asked by Mrs Yates and Ms Bolton if she could be in the room with them for support. Mrs Yates and Mrs Bolton denied that they had asked for Mrs Earl to be present. Furthermore, the report prepared by Individual F following the interviews on 18 May 2016 stated: *'The Local Authority also believes that the Headteacher's request to be the accompanying adult in all interviews corroborates the allegations of intimidation made by the members of staff...'*

Mrs Bolton also stated in her evidence that Mrs Earl led the School in a very authoritarian way and that Mrs Earl *'had vision but no compassion'*. Mrs Bolton stated that Mrs Earl was *'very firm in what she expected and how things were to be done'* and that this placed great pressure on staff.

In her written statement, Ms Marsh also referred to the *'enormous pressure'* to follow Mrs Earl's instructions. In her investigatory interview notes, Ms Marsh stated, *'Mrs Earl crushed people, tells them they're rubbish, adds more and more targets so they feel they have to please her.'*

In her oral evidence, Ms Honeyman said, *'Everything ran like clockwork but behind the cogs were people drowning in paperwork.'*

The panel was satisfied that Mrs Earl did instruct staff to conceal what had happened during the SATs, including the fact that extra time had been given to pupils.

The panel found allegation 2 proved.

3. Your conduct as set out at allegations 1 and/or 2 was dishonest.

As to Mrs Earl's conduct in allegation 1, the panel was satisfied that Mrs Earl was aware of the requirements for the administration of the SATs. In engaging in maladministration and instructing others to do so, her conduct was dishonest by the standards of ordinary decent people.

In relation to her conduct in allegation 2, Mrs Earl sought to conceal the maladministration that she knew had taken place and instructed others to conceal and lie. Her conduct was clearly dishonest.

The panel found allegation 3 proved.

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

Mrs Earl did not admit unacceptable professional conduct or conduct that may bring the profession into disrepute.

The panel was satisfied that the conduct of Mrs Earl, in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mrs Earl 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...
- 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 also considered whether Mrs Earl's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mrs Earl amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

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 were 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 Mrs Earl's actions constituted conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and 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 a number of them to be relevant in this case, namely, the maintenance of public confidence in the profession, 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 Earl, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Earl were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mrs Earl was outside that which could reasonably be tolerated.

The panel decided that there was some public interest in retaining Mrs Earl in the profession, as the panel has been presented with evidence of her abilities as a school leader who was able to make a valuable contribution to the profession.

A reference from Individual C, referred to the '*countless barriers that [Mrs Earl] overcame to be the first female, Asian, Muslim, headteacher in Rochdale.*' Individual C stated, '*Mrs Earl is the most naturally talented teacher I have ever met.*'

A reference from Individual G, a teacher who worked with Mrs Earl, stated: '*I have found her to be very fair and approachable towards myself as a member of staff within the school team and supportive in terms of work life balance in regard to my family.*'

There was another reference from a parent who stated that they met with Mrs Earl on many occasions during Mrs Earl's time at the School and that he found her to be *'engaging, focussed and professional each time we met'*. The reference went on to describe Mrs Earl as, *'by far the best headteacher Lowerplace has ever employed, and we were very upset when she left'*.

A reference from Individual H, who previously worked with Mrs Earl as a job share stated: *'One of Parveen's strengths in her resilience and commitment to the long game, adopting a strategic approach and building partnerships with key players.'*

Taking into account all of the evidence presented, the panel was satisfied that Mrs Earl had demonstrated that she could be a strong and effective school leader.

In view of the 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 Earl.

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 Earl. 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 proven. 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;
- a deep-seated attitude that leads to harmful behaviour;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;

The panel concluded that the misconduct had seriously affected the education and/or well-being of pupils. The panel heard that the pupils had worked hard in preparing for the tests and as a consequence of the maladministration their results had to be annulled. In addition, major disruption was caused to the School by the suspensions.

Mrs Earl's dishonesty was very serious in that she engaged in maladministration, instructed others to do so and then attempted to conceal it by instructing others to lie. A particularly brazen illustration of her dishonest conduct was to instruct others to provide inappropriate assistance to pupils as soon as the moderator had left the room in which pupils were taking the test. Once the maladministration had come to light, Mrs Earl attempted to control the process by seeking to predict the questions that might be asked

in the interview and instructing staff to maintain the pretence that the SATs had been administered correctly. Within her statement, she said that this was to support the staff and she continued to deny any wrongdoing. The panel found that her account of events in her written statement was demonstrably false.

The panel also found that that Mrs Earl bullied or intimidated some members of staff. This was the context in which Mrs Earl instructed some members of staff to engage in maladministration.

The panel heard evidence that Mrs Earl had treated the integrity of the SATs process with contempt. Similarly, her attitude to the investigation process was disdainful. This, together with the above findings, illustrated a deep-seated attitude on the part of Mrs Earl leading to harmful behaviour.

Even though some of the behaviour found proven 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 not appropriate or proportionate.

There was no evidence to suggest that Mrs Earl was acting under duress. Rather, the panel found her actions to be calculated and motivated.

Mrs Earl had a previous good history and the panel took into account the character references provided on her behalf.

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 not be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for the teacher of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations in favour of a prohibition order outweighed the interests of Mrs Earl and any public interest in Mrs Earl being able to continue to teach. Mrs Earl's orchestration of the maladministration, her attempted manipulation of the investigation and her serious dishonesty were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case

that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. One of these behaviours is serious dishonesty. Furthermore, in continuing to deny the allegations and in providing a false account of her role, Mrs Earl did not demonstrate any insight into her misconduct and did not express remorse.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mrs Earl should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mrs Earl 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...
- 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 findings of misconduct are particularly serious as they include a finding of dishonesty on the part of a headteacher. The panel point out that "Mrs Earl's dishonesty was very serious in that she engaged in maladministration, instructed others to do so and then attempted to conceal it by instructing others to lie. A particularly brazen illustration of her dishonest conduct was to instruct others to provide inappropriate assistance to pupils as

soon as the moderator had left the room in which pupils were taking the test.” The panel also found “that her account of events in her written statement was demonstrably false.”

The panel also found “that that Mrs Earl bullied or intimidated some members of staff. This was the context in which Mrs Earl instructed some members of staff to engage in maladministration.”

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 Earl, and the impact that will have on her, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “ the misconduct had seriously affected the education and/or well-being of pupils. The panel heard that the pupils had worked hard in preparing for the tests and as a consequence of the maladministration their results had to be annulled.” 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, “ in continuing to deny the allegations and in providing a false account of her role, Mrs Earl did not demonstrate any insight into her misconduct and did not express remorse.”

The panel has also commented that Mrs Earl, “had treated the integrity of the SATs process with contempt. Similarly, her attitude to the investigation process was disdainful. This, together with the above findings, illustrated a deep-seated attitude on the part of Mrs Earl leading to harmful behaviour.”

I have therefore given this element considerable weight in reaching my overall decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel say that it , “also took account of the uniquely influential role that teachers can hold in pupils’ lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct were 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.”

I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mrs Earl herself. The panel comments in summary, “the panel was satisfied that Mrs Earl had demonstrated that she could be a strong and effective school leader.”

A prohibition order would prevent Mrs Earl from teaching and would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the serious dishonesty. The panel has said, “Mrs Earl’s dishonesty was very serious in that she engaged in maladministration, instructed others to do so and then attempted to conceal it by instructing others to lie.”

I have also placed considerable weight on the finding of the panel that Mrs Earl bullied colleagues and that she was responsible for the, “orchestration of the maladministration, her attempted manipulation of the investigation and her serious dishonesty.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Earl has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by 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 that no provision should be made for a review period.

I have considered the panel’s comments which also relate to the published advice which, “indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. One of these behaviours is serious dishonesty. Furthermore, in continuing to deny the allegations and in providing a false account of her

role, Mrs Earl did not demonstrate any insight into her misconduct and did not express remorse.”

I have considered whether allowing for no review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of protecting children and maintaining public confidence in the profession. In this case, there are factors which mean that allowing for a no review period is necessary. These elements are the dishonesty found, the lack of either insight or remorse, and the pressure placed on other members of staff to act dishonestly.

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

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

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

Mrs Naheed Earl has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date she is given notice of this order.



Decision maker: Alan Meyrick

Date: 26 April 2019

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