



Teaching
Regulation
Agency

Mr Terence McHenry: Professional conduct panel outcome

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

November 2022

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

Teacher: Mr Terence McHenry

Teacher ref number: 0845838

Teacher date of birth: 27 July 1969

TRA reference: 18806

Date of determination: 17 November 2022

Former employer: Sheiling School, Thornbury

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 16 to 17 November by way of a virtual hearing to consider the case of Mr Terence McHenry.

The panel members were Mr Paul Hawkins (lay panellist – in the chair), Ms Juliet Berry (lay panellist) and Ms Bev Williams (teacher panellist).

The legal adviser to the panel was Mr Sam Haldane of Birketts LLP solicitors.

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

Mr McHenry was not present and was not represented.

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 5 August 2022.

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

- 1) On one or more occasions he provided false and/or misleading information, and/or failed to disclose relevant information regarding his previous medical history and/or issues with alcohol, namely;
 - a. when completing a Pre-Employment Medical Questionnaire dated 16 October 2010 in respect of his employment at King's College, Taunton;
 - b. during the course of a disciplinary investigation in or around February 2015 whilst employed at King's College, Taunton;
 - c. when completing a Pre-Employment Medical Questionnaire dated 24 October 2018 in respect of his employment at Sheiling School, Thornbury;
 - d. during the course of a disciplinary investigation in or around September 2019 whilst employed at Sheiling School, Thornbury.
- 2) His conduct as may be found proven at 1a and/or 1b and/or 1c and/or 1d above
 - a. lacked integrity;
 - b. was dishonest.
- 3) Attended for work when he was unfit to do so and/or were under the influence of alcohol on one or more occasions, namely;
 - a. on or around 11 February 2015 whilst employed at King's College, Taunton;
 - b. on or around 30 August 2019 whilst employed at Shelling School, Thornbury.
- 4) Sent one or more inappropriate and/or threatening text messages whilst employed at Sheiling School, Thornbury, in that he;
 - a. sent a text message to Pupil A's mother on or around 6 August 2019, in which he stated 'tell him I will kill him', when referring to Pupil A;
 - b. sent one or more messages to the Headteacher, including:

- i. a message on or around 9 August 2019 in which he stated 'If anyone tried to get into my home, it is a declaration of war. And you don't threaten the McHenry family';
- ii. a message on or around 16 August 2019 in which he stated 'But I am becoming angry with his attitude. You won't like me when I am angry' and 'But do not bullshit me'.

Mr McHenry did not provide a response to the notice of referral, however he did make a number of admissions in an undated letter to the TRA, attached to an email dated 15 July 2022.

The presenting officer confirmed he would be withdrawing allegation 1(d), and the panel did not therefore consider this allegation or make a determination in respect of it.

Preliminary applications

Application to proceed in the absence of the teacher

Mr McHenry was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr McHenry.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr McHenry in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the 'Procedures').

The panel concluded that Mr McHenry's absence was voluntary and that he was aware that the matter would proceed in his absence. The panel noted an email from Mr McHenry which stated that he was unable to attend the hearing due to his [REDACTED].

The panel noted that Mr McHenry had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr McHenry was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr McHenry was neither present nor represented.

Part of the hearing to be heard in private

The panel considered that part of the hearing relating to medical history should be heard in private. It is noted that there was no formal application from either Mr McHenry or the Presenting Officer.

The presenting officer did not have an objection to this.

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 (the 'April 2018 Procedures') apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Notice of hearing and response – pages 6 to 18
- Section 2: TRA witness statements – pages 20 to 160
- Section 3: TRA documents – pages 162 to 226
- Section 4: Teacher documents – pages 229 to 240

In addition, the panel agreed to accept the following:

- Emails between Terence McHenry and TRA

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:

- Witness A, [REDACTED]

- Witness B, [REDACTED]
- Witness C, [REDACTED]

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr McHenry was a class teacher at Sheiling School ('the School') from 1 November 2018. Mr McHenry was previously an assistant teacher at the School.

Mr McHenry lived on site. On 27 July 2019, Mr McHenry allegedly slipped over in Tesco and cut his hand, requiring a hospital visit. This was witnessed and reported by a member of staff at the School, who expressed their concern that the accident had been caused by Mr McHenry being under the influence of alcohol. Mr McHenry made an allegation against the member of staff, and was invited to give a witness statement. Mr McHenry was allegedly under the influence of alcohol at the time of the meeting; he was advised that he needed to sober up in order to give a reliable witness statement.

Mr McHenry subsequently withdrew his allegation. In the meantime, the School's maintenance team were concerned that the fire alarm kept getting set off and believed it may be due to Mr McHenry's activity in his on-site flat. Maintenance staff tried unsuccessfully for a week to gain Mr McHenry's permission to gain access to the flat; Mr McHenry's text messages to the maintenance team and the head teacher started to sound threatening.

Mr McHenry was given a notice to vacate his on-site flat. This was as a result of the concerns that he had been under the influence of alcohol since at least 27 July 2019. Mr McHenry was offered support and advice throughout the summer holiday from a number of managers at the School. He turned down offers to contact the Schools employee assistance programme and chose not to take up support offered.

Mr McHenry was allegedly witnessed by the [REDACTED] being under the influence of alcohol at work during the staff prep week and was suspended on full pay. On checking text messages on Mr McHenry's work phone on 20 August, the [REDACTED] became aware of an inappropriate message to a pupils mother on 6 August 2019.

Mr McHenry was dismissed from his role at the School for gross misconduct on 3 September 2019.

During Mr McHenry's disciplinary meeting, he admitted that he was under the influence of alcohol whilst on site whilst working and he stated that he had lied on his application form and did not mention that he had [REDACTED].

Findings of fact

The findings of fact are as follows:

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

- 1) On one or more occasions you provided false and/or misleading information, and/or failed to disclose relevant information regarding your previous medical history and/or issues with alcohol, namely;**
 - a. when completing a Pre-Employment Medical Questionnaire dated 16 October 2010 in respect of your employment at King's College, Taunton;**
 - b. during the course of a disciplinary investigation in or around February 2015 whilst employed at King's College, Taunton;**
 - c. when completing a Pre-Employment Medical Q Questionnaire dated 24 October 2018 in respect of your employment at Sheiling School, Thornbury;**

The panel noted an undated letter to the TRA, whereby Mr McHenry stated that he was truthful in his application to King's College. Mr McHenry submitted that he had not been [REDACTED] until the summer of 2015, after he had left the school. Mr McHenry explained that his doctor wrote to King's College confirming that he was capable of fulfilling the role of a teacher. Mr McHenry did not provide any medical evidence to support this.

Mr McHenry did, however, admit that he did not disclose his [REDACTED] to the School. Mr McHenry admitted that this was wrong but noted that there were a number of mitigating circumstances.

The panel noted the witness statement and oral evidence of Witness A. Witness A explained that Mr McHenry was initially employed at the School as an assistant teacher in September 2018. Witness A reviewed Mr McHenry's application and shortlisted him for the role. Within his application form he had indicated that he left his previous teaching post at King's College for "*personal reasons*" in March 2015.

On 28 September 2018 the School received a response to a request for a reference from King's School which indicated that "*due to an episode of him being drunk at work he was dismissed for gross misconduct*". This was discussed with Mr McHenry on 3 October 2018. Witness A noted that he was happy at that stage that Mr McHenry was honest and open and that the issues involved had been thoroughly resolved. Mr McHenry was subsequently taken on and commenced employment at the school as an Assistant Teacher on 24 October 2018.

Mr McHenry completed a Pre-Employment Medical Questionnaire on 24 October 2018. Mr McHenry signed the declaration to confirm that the information he had provided was accurate, and that he understood "*that throughout my employment I must make Sheiling School aware of any [REDACTED] which affect my answers to the above questions*". Mr McHenry also completed an application form for the role of Class Teacher. Mr McHenry took on the role of class teacher in November 2018.

Witness A submitted that Mr McHenry only revealed he had a [REDACTED] in the text message dated 4 August 2019. Witness A was otherwise unaware of this. Mr McHenry did not provide any [REDACTED] in support of this, and later admitted to [REDACTED] that he had deliberately withheld the [REDACTED] as he thought it would have interfered with his chances of getting the job. It was noted that McHenry had mentioned applying for 30 jobs but not getting them because of his [REDACTED]. The panel felt that withholding the information about his [REDACTED] was a clear attempt to further his employment prospects and was dishonest.

The panel noted the witness statement and oral evidence of Witness C. Witness C explained that Mr McHenry completed a Pre-Employment Medical Questionnaire on 16 October 2010. Mr McHenry signed the declaration to confirm that "*all the information I have given in this form is true and I have not withheld any material fact*". After reviewing Mr McHenry's file, Witness C was aware that in or around 2013, he disclosed that he had experienced a personal blip during the school academic holidays that year. However, Witness C did not have any further knowledge of this.

The disciplinary hearing was reconvened on 26 February 2015 in light of the further information gathered during the investigation. Mr McHenry did not attend on this occasion but his representative was in attendance. [REDACTED] explained that there were two issues of dishonesty to consider, firstly dishonesty as regards to the [REDACTED] and secondly with regards to Mr McHenry's failure to disclose his extensive history of [REDACTED] during the Disciplinary Hearing on 18 February 2015. Mr McHenry's representative, [REDACTED], stated on Mr McHenry's behalf that he did admit to [REDACTED] previously but did not want to tell the School. Mr McHenry had led himself to the conclusion that his [REDACTED] had ceased when he applied for the job at King's School. [REDACTED] said Mr McHenry admitted to lying on the [REDACTED] but thought it would make him "*unemployable*" to the School and he believed the issues were behind him at that point.

The panel found that the witness evidence was truthful and that Mr McHenry had not been honest about his circumstances and that throughout there were a number of inconsistencies regarding his [REDACTED] and use of alcohol.

The panel found allegations 1a, 1b and 1c proved.

2) Your conduct as may be found proven at 1a and/or 1b and/or 1c above

a. lacked integrity;

b. was dishonest.

The panel firstly considered whether Mr McHenry had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel considered that Mr McHenry had failed to act within the higher standards expected of a teacher by not informing the School of his [REDACTED]. The information about his [REDACTED] was relevant to the School, and would be relevant at any School, because teachers are placed in a position of trust. The panel felt that had he disclosed his [REDACTED] then it would have been clear a referral to [REDACTED] would have been required.

The panel then considered whether Mr McHenry had acted dishonestly. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel firstly sought to ascertain the actual state of Mr McHenry's knowledge or belief as to the facts. They considered that he was dishonest and lacked integrity. They felt that his failure to disclose his issues with [REDACTED] and [REDACTED] was calculated based on him being rejected for around 30 other roles. The panel further noted that Mr McHenry was hiding his use for specific reasons in order to try and further his career.

The Panel found allegation 2a and 2b proved.

3) Attended for work when you were unfit to do so and/or were under the influence of alcohol on one or more occasions, namely;

a. on or around 11 February 2015 whilst employed at King's College, Taunton;

b. on or around 30 August 2019 whilst employed at Shelling School, Thornbury.

On the evening of 11 February 2015, Mr McHenry was under the influence of alcohol and acted inappropriately and aggressively towards certain students, whilst on duty. Witness C was aware that [REDACTED], spoke to the students that evening and that a number of different students came forward with varying accounts of strange, worrying and intimidating behaviour, displayed by Mr McHenry, which made them feel uneasy and concerned. The students reported Mr McHenry smelling of alcohol, walking uneasily and seeming to lose coordination at times. [REDACTED] visited Mr McHenry's flat at the end of the evening to report the concerns that had been raised and to explain that he would not be undertaking house duty the following evening. [REDACTED] reported that Mr McHenry became belligerent, defensive and aggressive in tone during this encounter.

[REDACTED] also claimed that he felt Mr McHenry had showed signs of being intoxicated and also smelt of alcohol.

The students provided statements of what they had witnessed. It was alleged by the students that Mr McHenry had made inappropriate comments on 11 February 2015 including “*alright pricks*” when greeting them and “*this is a fucking tune*” when the students were listening to music. The students also reported that Mr McHenry had said “*don’t get me wrong I hate you but if you wanted me to be your tutor I would back you*” and “*didn’t think I would miss you because you have a really punchable face*”.

[REDACTED] had reported to the [REDACTED] that Mr McHenry had made a number of strange comments whilst preparing their classrooms, which made her feel uncomfortable. The [REDACTED] located Mr McHenry at his onsite flat whilst he should have been in the classroom and describes him as being ‘*clearly very drunk*’.

Mr McHenry was suspended as of 30 August 2019 pending investigation, due to concerns that he was under the influence of alcohol at work.

Further to this whilst employed at Sheiling School Mr McHenry accepted he had been drinking heavily at night and would still be under the influence of alcohol the next morning when he was to attend work. Whilst it is accepted that there were no pupils present on this occasion it was the view of the panel that this was still inappropriate and unprofessional.

The panel found allegations 3a and 3b proved

4) Sent one or more inappropriate and/or threatening text messages whilst employed at Sheiling School, Thornbury, in that you;

- a. sent a text message to Pupil A’s mother on or around 6 August 2019, in which you stated ‘tell him I will kill him’, when referring to Pupil A;**
- b. sent one or more messages to the Headteacher, including:**
 - i. a message on or around 9 August 2019 in which you stated ‘If anyone tried to get into my home, it is a declaration of war. And you don’t threaten the McHenry family’;**
 - ii. a message on or around 16 August 2019 in which you stated ‘But I am becoming angry with his attitude. You won’t like me when I am angry’ and ‘But do not bullshit me’**

It was agreed that Mr McHenry would resume to his boarding duties on the week commencing 9 February 2015 and for him to start teaching again after the half term on 23 February 2015.

When Mr McHenry was suspended, he returned his work mobile phone to Witness A. Upon reviewing the phone, Witness A became aware of inappropriate messages that Mr McHenry had sent to Pupil A's mother on 6 August 2019. There was a text message that was threatening in nature as he stated *"tell him I will kill him"* when referring to Pupil A. Although teachers do have regular contact with parents during term time, which can include text message communication, it would be very unusual for a teacher to contact a parent during the summer holiday period.

On 9 August 2019 Witness B logged an incident with the Police regarding threatening text messages Mr McHenry had sent to Witness A which had also referred to Witness B. Witness A read out these text messages to Witness B but he could not recall if he had done so on 9 August or the previous day. Witness B recalled the text messages reading *"if anyone tried to get into my home, it's a declaration of war"* and *"I'm still here. Tell [REDACTED] to stand down. I understand he is trying to make a name for himself but I am becoming angry with his attitude. You won't like me when I am angry."*

The Police told the School to monitor it and to keep them updated if further threatening text messages were received. Witness A and Witness B were concerned as Mr McHenry was living onsite at this point and so he could easily locate them.

The panel had sight of the messages that had been sent by Mr McHenry. It was noted that he did not deny sending these messages. The panel felt that this was clear and compelling evidence to find the allegations proved.

Further to this the panel noted the evidence given by Witness A who detailed that he had felt threatened and uneasy due to the unpredictable behaviour of Mr McHenry which over time had become increasingly hostile.

The panel found allegations 4a, 4b, 4b(i) and 4b(ii) proved.

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

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

In doing so, the panel had regard to the document Teacher misconduct: The prohibition of teachers, which is referred to as 'the Advice'.

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

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

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

The panel also considered whether Mr McHenry's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that the offence of serious dishonesty was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that allegation 4 took place during the summer holidays and that Mr McHenry was sending text messages to a pupil's mother. The panel believed this touched upon Mr McHenry's position as a teacher.

Accordingly, the panel was satisfied that Mr McHenry 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 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 McHenry's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a), 1(b), 1(c), 2(a), 2(b), 3(a), 3(b), 4(a), 4(b)(i) and 4(b)(ii), proved, the panel further found that Mr McHenry's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.

The panel were aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; 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 McHenry, which involved providing false and/or misleading information and attending work whilst being under the influence of alcohol, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr McHenry was 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 Mr McHenry was outside that which could reasonably be tolerated.

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 McHenry.

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the well-being of pupils, and particularly where there is a continuing risk;
- violating of the rights of pupils;
- deliberate behaviour that undermines pupils, the profession, the school or colleagues;
- dishonesty or a lack of integrity, including the deliberate concealment of their actions, especially where these behaviours have been repeated or had serious consequences
- concealment including:
 - lying to prevent the identification of wrongdoing;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Mr McHenry's actions were not deliberate.

There was no evidence to suggest that Mr McHenry was acting under extreme duress.

No evidence was submitted to attest to Mr McHenry's previous history or ability as a teacher. No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr McHenry contributed significantly to the education sector however it was noted he was felt to be a good teacher.

Mr McHenry detailed a number of mitigating circumstances, as outlined in an undated letter to the TRA. Mr McHenry stated that he had not had a [REDACTED] for over a year and was told by a [REDACTED] that [REDACTED] is not always correct and therefore he may never have had [REDACTED]. Prior to Mr McHenry's application to the School, he had applied to over 30 schools, and in each case he had stated that he had [REDACTED] and did not receive any interviews. Mr McHenry stated that he was desperate to work and with the possibility that he did not have [REDACTED], he took the decision not to mention it on future applications.

At the end of the summer term in July 2019, Mr McHenry was informed of a situation regarding his children, which caused him deep distress and allegedly triggered his [REDACTED]. During this time, Mr McHenry found it impossible to access mental health facilities and turned to [REDACTED]. Mr McHenry did not feel that he received support from the School during this time.

Upon returning to the School at the start of the term, Mr McHenry explained that he was exhausted from lack of sleep and from the stress of [REDACTED] in the same week. Mr McHenry had been told by [REDACTED].

Mr McHenry submitted that since leaving the Sheiling School, he no longer drinks alcohol. The [REDACTED], and as opposed to [REDACTED], he believes that this has been successful in [REDACTED].

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr McHenry 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 McHenry. The serious dishonesty and prolonged period of misconduct was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel found that Mr McHenry was not responsible for any such behaviours.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours include serious dishonesty. The panel found that Mr McHenry's conduct lacked integrity and was dishonest.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period. That period being 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 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 Mr Terence McHenry should be the subject of a prohibition order, with a review period of five years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
 - Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

- 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 McHenry fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include a finding of dishonesty and working under the influence of alcohol.

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

In this case, I have considered the extent to which a prohibition order would protect pupils. The panel has observed, “In the light of the panel’s findings against Mr McHenry, which involved providing false and/or misleading information and attending work whilst being under the influence of alcohol, there was a strong public interest consideration in respect of the protection of pupils.” 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, “Mr McHenry submitted that since leaving the Sheiling School, he no longer drinks alcohol. The [REDACTED], and as opposed to [REDACTED] he believes that this has been successful in [REDACTED].”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “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.” 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 Mr McHenry himself and the panel comment “No evidence was submitted to attest to Mr McHenry’s previous history or ability as a teacher. No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr McHenry contributed significantly to the education sector however it was noted he was felt to be a good teacher.”

A prohibition order would prevent Mr McHenry from teaching. A prohibition order would also clearly 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, “The panel found that the offence of serious dishonesty was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The panel noted that allegation 4 took place during the summer holidays and that Mr McHenry was sending text messages to a pupil’s mother. The panel believed this touched upon Mr McHenry’s position as a teacher.

The panel noted the evidence given by Witness A who detailed that he had felt threatened and uneasy due to the unpredictable behaviour of Mr McHenry which over time had become increasingly hostile.”

In making my decision I have given additional weight to the following comment “The panel firstly sought to ascertain the actual state of Mr McHenry’s knowledge or belief as to the facts. They considered that he was dishonest and lacked integrity. They felt that his failure to disclose his issues with [REDACTED] and [REDACTED] was calculated based on him being rejected for around 30 other roles. The panel further noted that Mr McHenry was hiding his use for specific reasons in order to try and further his career.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McHenry has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, 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 "The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours include serious dishonesty. The panel found that Mr McHenry's conduct lacked integrity and was dishonest."

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 lesser review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found proven.

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 McHenry 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 25 November 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, McHenry remains prohibited from teaching indefinitely.

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

Mr McHenry has a right of appeal to the King'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, appearing to read 'SABuxcey', with a stylized, cursive script.

Decision maker: Sarah Buxcey

Date: 22 November 2022

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