



Teaching
Regulation
Agency

Mr Warren Mitchell: Professional conduct panel outcome

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

October 2022

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	5
Documents	5
Witnesses	6
Decision and reasons	6
Findings of fact	8
Panel's recommendation to the Secretary of State	15
Decision and reasons on behalf of the Secretary of State	19

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

Teacher:	Mr Warren Mitchell
TRA reference:	18840
Date of determination:	18 October 2022
Former employer:	Millfield Science and Performing Arts College, Lancashire

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 17 to 18 October 2022 by way of a virtual hearing, to consider the case of Mr Warren Mitchell.

The panel members were Mr Alan Wells (former teacher panellist – in the chair), Ms Susanne Staab (teacher panellist) and Mrs Kelly Thomas (lay panellist).

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

The presenting officer for the TRA was Ms Kiera Riddy of Browne Jacobson solicitors.

Mr Mitchell was present and was represented by Mr Rob Young of NASUWT.

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 19 August 2022.

It was alleged that Mr Mitchell was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Millfield Science and Performing Arts College between 1 September 2016 and 31 December 2019 he:

1. Between March 2019-May 2019 engaged in the maladministration of the 2018/19 BRSV4 BTEC Business Studies Unit 8 coursework in particular he:
 - a) Permitted students to work on Pearson BTEC Business Studies Unit 8 beyond the deadlines permitted by the assessment plan;
 - b) On or around Monday 29 April 2019, he submitted marks to the Examining/Awarding Body for Pearson BTEC Business Studies Unit 8 coursework that he knew were estimated and/or not achieved at the time he submitted the marks;
 - c) Instructed one or more pupils and/or supporting staff to produce work to justify the marks he had submitted to the Examining/Awarding Body;
 - d) He failed to send and/or delayed the sending of the sample of work as requested by the external verifier.
2. His conduct as may be found proven at allegation 1a-1d above lacked integrity and/or was dishonest.

Mr Mitchell initially admitted the facts of allegation 1 and denied allegation 2, as set out in his signed and undated response to the notice of hearing. Mr Mitchell also initially denied that those admitted facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

At the beginning of the hearing it was made clear by Mr Mitchell's representative that he accepted all of the allegations and accepted that they amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

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.

Application to postpone

The teacher's representative withdrew an application to postpone the hearing.

Application to admit additional documents

The panel considered a preliminary application from the teacher's representative for the admission of additional documents.

The teacher's documents were appointment of head of ICT Letter and Job Application form.

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the April 2018 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the 2018 Procedures.

The panel heard representations from the teacher's representative in respect of the application.

The panel considered the additional documents were relevant. Accordingly, the documents were added to the bundle.

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 8 to 11
- Section 2: Notice of hearing and response – pages 13 to 19
- Section 3: Teaching Regulation Agency witness statements – pages 21 to 33
- Section 4: Teaching Regulation Agency documents – pages 35 to 376

- Section 5: Teacher documents – pages 379 to 426
- Teachers late evidence – provided separately
- Malpractice committee determination – provided separately

In addition, the panel agreed to accept the following:

- Appointment Letter
- Job Application Form

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 Mitchell was employed by Millfield Science and Performing Arts College ('the College') from 1 September 2016 until 31 October 2019.

In September 2017, a cohort of two Year 9 Business BTEC classes, taught by Individual D and Mr Mitchell, started to undertake guided hours.

In September 2018, registration of a cohort in Year 10 for Business BTEC took place.

Between 29 January to 15 February 2019, Mr Mitchell was on sick leave for non-work related stress.

On 4 March 2019, Mr Mitchell emailed Witness C, Pearson standards verifier, with an assessment plan for the Business BTEC class. On 5 March 2019, Witness C emailed Mr Mitchell requesting further information including student grades for the Unit 8 assignment of the Business BTEC course.

On 8 March 2019, the final verification for Unit 8 assignment took place. 29 March 2019 was the deadline for Unit 8 sample work to be provided.

On 17 April 2019, Individual D was told by Mr Mitchell to start Unit 8 work, although not all students were present during this time. During the week beginning 23 April 2019, both classes were working on Unit 8.

On Sunday 28 April 2019, Witness C, via email, requested student work from Mr Mitchell. In a subsequent email later the same day, Witness C confirmed her request for the list of learner names and grades.

At 9:25am on Monday 29 April 2019, a list of marks was provided by Mr Mitchell to Witness C. Later that day, Witness C requested a sample of work for Pupils A, B, C and D. Mr Mitchell asked Individual D where students were in their work, specifically naming Pupils A, B, C and D and asked Individual D to estimate their grades.

On 29 April 2019, Pupil C reported to Individual E, Mr Mitchell's line manager, that he had to stay on Monday and Tuesday night to make sure his work was up to the target grade. Mr Mitchell sent a text to Individual D that evening and told her that they needed to get the work "*smashed*" the next day and instructed her not to talk to Individual E.

On 30 April 2019, Mr Mitchell confirmed to Witness C that work was ready to be sent. Witness C then requested the work to be sent the same day. Mr Mitchell asked Individual D to send a text to students to ensure that they attended an intervention that evening, specifically naming Pupil A and Pupil D.

Interventions took place on Monday 29, Tuesday 30 April 2019 and Wednesday 1 May 2019. Individual D was instructed by Mr Mitchell to allow Pupil A to only work on Level 1 criteria and that Pupil D should only work on merit level criteria. Pupil E was told that he could only achieve a Level 2 pass. Mr Mitchell told Pupil A that he had achieved a Level 1 pass and later deleted some of Pupil A's work. Pupil D was told that work was due to be sent off on Thursday 2 May.

On 1 May 2019, Mr Mitchell asked Individual F, exams officer, for a coursework bag. Witness C emailed Mr Mitchell saying that the sample had not been provided. Mr Mitchell said that he would chase the office staff. Mr Mitchell later posted student work to Witness C.

On 2 May 2019, Mr Mitchell was suspended following concerns raised by parents and staff.

On 3 May 2019, work on the Unit 8 assignment was still ongoing. Classes were instructed to stop by Individual G, [REDACTED].

On 7 May 2019, Witness C replied to Witness B, [REDACTED], to confirm that the work had arrived over the weekend.

On 31 October 2019, Mr Mitchell resigned from his position at the College, prior to a planned disciplinary hearing on 13 November 2019.

On 6 August 2020, Pearson Malpractice Committee issued Mr Mitchell with a written warning.

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. Between March 2019-May 2019 engaged in the maladministration of the 2018/19 BRSV4 BTEC Business Studies Unit 8 coursework in particular you:**
 - a) Permitted students to work on Pearson BTEC Business Studies Unit 8 beyond the deadlines permitted by the assessment plan;**
 - b) On or around Monday 29 April 2019, you submitted marks to the Examining/Awarding Body for Pearson BTEC Business Studies Unit 8 coursework that you knew were estimated and/or not achieved at the time you submitted the marks;**
 - c) Instructed one or more pupils and/or supporting staff to produce work to justify the marks you had submitted to the Examining/Awarding Body;**
 - d) You failed to send and/or delayed the sending of the sample of work as requested by the external verifier.**

The panel noted that within the response to the notice of hearing, Mr Mitchell admitted the facts of allegations 1(a), 1(b), 1(c) and 1(d). At the start of the hearing it was confirmed through his representative that Mr Mitchell now admitted allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel noted the witness statement and oral evidence of Witness A, [REDACTED] at the College. On Wednesday 1 May 2019, Individual D raised her concerns with Witness A in relation to Mr Mitchell's process of awarding marks.

On Thursday 2 May 2019, Witness A asked Individual G, [REDACTED], to conduct an investigation into Mr Mitchell's conduct. Individual G conducted interviews with staff and

pupils and wrote a summary report. Witness A provided a copy of the report to the Governors' Staff Discipline and Dismissal Committee.

Witness A explained that Mr Mitchell was responsible for reporting progress of the BTEC Business course to his line manager, Individual E, who informed Witness A that no issues had been raised at all in line management meetings.

Witness A submitted that on 4 March 2019, Mr Mitchell emailed the Pearson external verifier, Witness C, a copy of his assessment plan for the BTEC business course. Witness A explained that this should have been completed prior to the academic year starting in September 2018. Witness A further explained that, according to Individual H account submitted in Witness A's report, Mr Mitchell asked Individual H to sign the assessment plan on the spot in her classroom before he "*went off from school*"; Individual H refused to do this. However, the plan did contain Individual H name on it as the internal verifier.

Witness A explained that assessment plans are written by the centre delivering the course. Although they may be flexible, any changes to the dates of assignments should be agreed in advance. Witness A submitted that there was no mention of any such adjustment in Individual G's investigation report, nor was she aware of any agreed adjustment.

On 28 March 2019, Witness C emailed Mr Mitchell as she needed a sample of student work in order to check his marking was accurate, and requested information that she needed in order to select which learners' work was overdue. On Monday 29 April 2019, Mr Mitchell provided Witness C with marks for the assignment. Later that day, and after Witness C identified four students for the sample, according to Individual D statement Mr Mitchell asked Individual D where the four students were in their work. As Individual D had not marked the work, she was asked to estimate what the students were likely to get.

On Monday 29 April 2019, Mr Mitchell also informed Individual D via text message not to talk to Individual E and that they would get the work done the next day and sent off. Witness A submitted that accounts by students and staff demonstrated that students were still completing work for the assignment on Wednesday 1 May 2019, after Mr Mitchell had sent marks to the external verifier and significantly after the date by which they should have completed work. Witness A explained that, according to Individual D, apart from attending some lessons, one student had not even started the assignment by the time Mr Mitchell sent their marks to Witness C. Individual D also reported that the unit had been started "*months ago*", and that lessons were on Moodle but no assignments had been provided.

Witness A submitted that the accounts showed that Mr Mitchell directed students and Individual D, in effect, to "*match*" the standard of student work to fit the marks he had provided to Witness C. Witness A felt that this had the effect for some students that Mr

Mitchell "*capped*" the marks that they could have achieved. One student reported that Mr Mitchell deleted some of his work so as to bring it in line with the grade he had submitted. Although Mr Mitchell denied that he had deleted any work of pupils he accepted he had directed and allowed students to continue working on their submissions.

On Tuesday 30 April 2019 Witness C requested that Mr Mitchell posted the samples that day. On Wednesday 1 May 2019 she emailed Mr Mitchell to say that the sample had not arrived. Mr Mitchell replied that evening to say "*I shall chase up with the office staff in the morning*" and that he had sent another envelope with some consent forms in. On Thursday 2 May 2019 Witness C emailed Mr Mitchell that she had not received any post. On Tuesday 7 May 2019 Witness C confirmed by email to the school Quality Nominee, Witness B, that the sample was received "*over the weekend*".

Witness A explained that staff responsible for the post reported that Mr Mitchell kept the work to send off himself and that he was asked to make sure he had proof of postage; evidence of this was received and showed that Mr Mitchell had posted the work to Witness C on 1 May 2019 at 19:57pm, after he had been suspended from work.

In response to the allegations against him, Mr Mitchell made a subsequent allegation against three senior members of staff. Mr Mitchell submitted in his response that BTEC courses should start in Year 10, not Year 9 and that as a result of the decision by the school to run the course in Years 9 and 10, Individual G, Witness B and Individual J "*said it was OK to falsify the assessment plan and create a one-year version*". Witness A investigated this allegation against Individual G, Witness B and Individual J and found no evidence to support it.

Individual G reported that it had been Mr Mitchell's request, after the cohort had started GCSE Business Studies in the autumn of 2017 while in Year 9, to change the course to the BTEC. Witness B reported that he had contacted Pearson who agreed that a one-year plan for assessments was fine. Mr Mitchell wrote the assessment plan himself with no involvement from Individual G, Witness B or Individual J. Therefore Witness A found Mr Mitchell's allegations unsubstantiated.

The panel noted the witness statement and oral evidence of Witness B, head of performing arts department and quality nominee at the School. Witness B's role as Quality Nominee is to pass on communication from Pearson to teachers, and to make sure teachers have undertaken OSCA training, the online system that facilitates accreditation for lead assessors and lead internal verifiers. Witness B also liaises annually and assesses the College's policies when Pearson undertake checks that the College is able to run the courses.

Witness B explained that he was not involved in the monitoring of the progress of the course; that was the responsibility of Mr Mitchell's line manager, Individual E. Mr Mitchell went on sick leave for a period in Spring 2019 and was required to have set work for

substitute teachers while he was off. Mr Mitchell wrote the assessment plan for the course. Witness B was aware that it took a very long time for Mr Mitchell to produce the assessment plan. The plan needed to be verified and could be verified by the quality nominee or any other lead verifier from any subject and the construction of the plan does not require any subject specialist. Importantly, the internal verifier was shown as Individual H when in fact, Individual H did not verify the plan.

In Spring 2019 Witness C got in touch to request a copy of the plan. Witness B spoke to Mr Mitchell to tell him to “*get on with it*”. Witness B asked Witness C to copy him in to email communication with Mr Mitchell. Mr Mitchell emailed Witness C with the plan on Monday 4 March 2019.

When Mr Mitchell returned to work after sick leave in the Spring term of 2019, he raised no concerns about students’ progress. He did ask again about the assessment dates, and Witness B checked again with Pearson. Witness B submitted that he received the same advice as before and Pearson advised that a two-year course beginning in Year 9 should have an assessment plan which indicated that some teaching had taken place prior to registration in Year 10 but that all assessments would take place during Year 10 after registration.

Witness B was copied into an email from Witness C on Sunday 28 March 2019 to Mr Mitchell. She asked what was happening with his samples, as she had not received anything from the College, and asked Mr Mitchell to forward the work on Monday or Tuesday so that she could undertake her review.

Mr Mitchell replied, also on Sunday 28 March 2019, to say that he had not received her previous email request. Witness B saw Mr Mitchell on Monday morning and Mr Mitchell said that he had not had the list of candidate’s names. However, he showed an email list asking for the four names.

On Tuesday 30 March 2019, Mr Mitchell emailed Witness C to say that the sample was ready but that he was waiting for consent forms. Mr Mitchell asked for her postal address. On Wednesday 1 April Witness B saw Mr Mitchell and he said that “*it was all ok*”. This referred to the coursework sample for the four named students.

Witness B emailed Witness C on 7 May 2019, to confirm that she had received the sample and to ask when she received the marks from the centre. Witness C confirmed that she had received the grades for the Unit and received the sample that Mr Mitchell sent over the weekend.

The panel also noted the witness statement and oral evidence of Witness C, standards verifier for Pearson for BTEC business and enterprise.

Witness C explained in detail how the BTEC Business course offered by the College is assessed. Witness C submitted that centres are free to set the work but in order to

standardise quality and assessment across many centres, Pearson appoint 'standard verifiers' who sample assessment plans, material and learners' work from a number of units to ensure that centres' assessment decisions are accurate and in line with national standards.

Witness C explained that each centre puts together its own assessment plan. The centre is able, within reason, to choose deadlines and dates for internally assessed units (all except unit 2 which has an external exam). The course is usually designed and completed as a two-year-programme for students starting in year 10 to finish at the end of year 11. However, it can also be run in one year or over three years. The BTECs are flexible programmes.

Each internally assessed unit is assessed via set assignments which cover specified learning aims or outcomes. Pearson have set assignments available online for centres to use. The assessment plan is one of the first documents which Witness C requests from a centre. Before sending the assessment plans to a standards verifier, it should have been internally verified by the lead internal verifier at the centre. Mr Mitchell was the assessor for the College, so the lead internal verifier should have been another member of staff at the College performing this role.

Witness C chose at random to verify a sample of work from Unit 8. Unit 8 consists of two assignments. One covers learning aim A, and the other covers learning aims B and C. Each assignment had its own set deadlines, which should ideally be staggered so that students can benefit from the feedback on the first assignment. Once the plan is verified, the dates are not entirely set in stone. This is because the plan is designed at the start of the course and Pearson recognises that some (usually minor) changes may need to be made in line with operational demands. Dates can therefore be moved if required, but it is good practice to let the lead internal verifier know in case there are any knock-on effects.

Any changes made must allow students a fair length of time for each assessed assignment. Changes do not affect any re-submission opportunities as timescales are recommended by Pearson. Witness C submitted that there was no date or electronic signature to signify the internal verification of the College's assessment plan that was emailed to her in March 2019, as there should be, so she was unable to see when it was approved. Witness C received the document by email on 5 March 2019. Assessment plans must be signed and dated by the lead internal verifier at the start of the academic year.

On 4 March 2019 Mr Mitchell emailed Witness C the assessment plan for the BTEC First Business Level at the College. Witness C replied on 5 March 2019 stating that she would require a sample of work by four learners by 29 March 2019. In order to select four learners, Witness C requested further information as soon as Mr Mitchell was able, e.g. grades for all learners for Unit 8 to ensure that the sample that she selected represented all ability levels. Witness C did not receive a reply.

On Sunday 28 April 2019, Witness C emailed Mr Mitchell to ask, “*what is happening regarding your sample*” as she had not received anything from the College which she had been expecting a month previously. Mr Mitchell replied on the same day, stating that he had not received the email requesting the sample and promised to send “*the requested information ASAP*”. Witness C replied to request a list of learner names and the grades for the Unit 8, again to be sent the following day, Monday 29 April 2019.

On Monday 29 April 2019, Mr Mitchell forwarded a list of marks for Unit 8. Witness C requested a sample of four named students’ work. On Tuesday 30 April 2019, Mr Mitchell emailed, stating that the sample was ready to be sent and asked for a postal address. He advised that he was still awaiting “*a few consent forms to be signed by parents/guardians*” which he was expecting the same day. Witness C provided her postal address and asked him to post the sample that day, without the outstanding forms which could be sent later in the week.

On Wednesday 1 May 2019 at 14:02, Witness C emailed Mr Mitchell to advise that the sample had not arrived in the post. He replied, stating that he would chase the office staff the following morning. On Thursday 2 May 2019 at 15:58, Witness C emailed Mr Mitchell again in relation to the samples, as she had still not received them in the post. On Tuesday 7 May 2019, in response to an enquiry from Witness B, Witness C replied that she had received the sample over the weekend, being 5 May 2019.

The panel found that all witnesses who gave oral testimony were truthful and believable witnesses.

The panel noted a letter from Pearson dated 11 August 2020 which set out the malpractice committee’s determination. The letter stated that Mr Mitchell expressed that he submitted marks to the BTEC assessor which were not 100% accurate. Although the marks submitted for his students were correct, he acknowledged that the marks submitted for the RQT’s class were not correct. Mr Mitchell submitted that he did not set out to deceive the exam board with malice or intent. At that time, he made what he believed was a rational decision and, in hindsight, he made a huge error of judgement.

The malpractice committee did not consider that Mr Mitchell’s actions constituted ‘deception’ as defined in the JCQ suspected malpractice: policies and procedures. In determining the sanction for malpractice, the committee was mindful of the mitigating personal circumstances affecting him at the time of the error.

The panel found allegations 1(a), 1(b), 1 (c) and 1(d) proven.

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

The panel noted that Mr Mitchell admitted to the allegation 2.

The panel concluded that Mr Mitchell's conduct had clearly been dishonest by the objective standards of ordinary decent people. In reaching this decision, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

When considering whether Mr Mitchell had failed to act with integrity the panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel, having considered all the evidence, found that Mr Mitchell had failed to act with integrity.

The panel felt that falsifying documents was clearly a dishonest action which lacked integrity.

On consideration of all the evidence, the panel found the facts of both limbs of this allegation proven.

The panel found allegation 2 proven.

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 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 Mitchell, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Mitchell 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered Part 1 of the Teachers' Standards in particular section 6; make accurate and productive use of assessments:

- Know and understand how to assess the relevant subject and curriculum areas including statutory assessment requirements.

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

The panel also considered whether Mr Mitchell'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 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.

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

Having found the facts of allegations 1(a), 1(b), 1(c) and 1(d) and 2 proved, the panel further found that Mr Mitchell'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 Mitchell, which involved engaging in maladministration of coursework and lacking integrity and/or being dishonest, 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 Mitchell 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 Mitchell 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 Mitchell.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Mitchell. 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 education and/or well-being of pupils, and particularly where there is a continuing risk;
- deliberate behaviour that undermines pupils, the profession, the school or colleagues;
- a dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence
- collusion of concealment including:
 - any activity that involves knowingly substantiating another person's statements where they are known to be false;
 - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions;
 - encouraging others to break rules;
 - lying to prevent the identification of wrongdoing;

- deliberate action in serious contravention of requirements for the conduct of an examination or assessment leading to an externally awarded qualification or national assessment (or deliberate collusion in or deliberate concealment of such action) particularly where the action had, or realistically had the potential to have, a significant impact on the outcome of the examination assessment;

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 Mitchell's actions were not deliberate.

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

No evidence was submitted to attest to Mr Mitchell's history or ability as a teacher. Nor was any evidence submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Mitchell contributed significantly to the education sector.

The panel noted the mitigation evidence submitted by Mr Mitchell. Mr Mitchell explained that for 12 months prior to 2 May 2019, he was involved in divorce proceedings with his wife. This caused Mr Mitchell intense stress and increased his [REDACTED]. In January 2019, Mr Mitchell and [REDACTED].

After being made homeless on 23 January 2019, Mr Mitchell was under a huge amount of stress. Therefore, on 30 January 2019, Mr Mitchell began a period of sickness from work due to the stress caused. This period lasted 2 and a half weeks until he returned on 25 February 2019.

Mr Mitchell explained that, during his absence, there was an amount of work that was not completed. One of Mr Mitchell's concerns was the BTEC business studies course. Mr Mitchell submitted that he raised his concerns with the appropriate staff at the end of February/beginning of March. However Mr Mitchell was asked to continue with the course as originally planned.

Throughout the first few months of 2019, Mr Mitchell was [REDACTED]. Mr Mitchell visited his [REDACTED] and he was informed that he could seek [REDACTED] but there was an approximate waiting list of 32 weeks. It was not until 9 May 2019 that Mr Mitchell was able to [REDACTED].

Since his suspension, Mr Mitchell has engaged in [REDACTED]. This has helped him to learn to deal with [REDACTED].

The panel noted that Mr Mitchell had turned his life around and appeared to doing well in his current job and was now more stable than he had previously been in terms of his financial stability and having stable accommodation.

Mr Mitchell accepted that he made a wrong decision that he deeply regrets. The panel felt that this was simply a one off period of time and that Mr Mitchell made a poor decision which they felt would not be repeated again. He had shown insight and regret in respect of his behaviour.

The panel noted that Pearson (the examination body) had provided Mr Mitchell a warning as to his future conduct which would remain on file for a period of three years. He was not prohibited from administering examinations. They were particularly mindful of his significant personal circumstances affecting him at the time of the error he made.

The panel noted a number of character references submitted on behalf of Mr Mitchell. These pertained to his professional conduct both before and after the misconduct which was the subject of this hearing. Taken together it was clear to the panel that this was an isolated incident which was an error of judgement. It was felt this would be unlikely to be repeated due to the significant steps taken by Mr Mitchell to address the underlying issues which led him to do this. In particular, the panel noted the following:

- Individual K, [REDACTED] of Mr Mitchell during September 2016 and January 2018
 - *“To the best of my knowledge, during this period of time, I had no concerns regarding the personal conduct of Mr Mitchell.”*
 - *“He showed integrity when interaction with staff and was always polite towards myself. He was an excellent listener was very respectful of all ideas and suggestions that were put forward in relation to curriculum content.”*
 - *“He was open and honest in communications with myself and I was able to rely upon him to support me when necessary.”*
- Individual L, [REDACTED]
 - *“Over his brief time at the school Warren has demonstrated good subject knowledge, professionalism and leadership. With our unfortunate situation at the school, Warren was thrown into the deep end to prepare KS4 pupils for their exams by ensuring pacey recovery of the curriculum and bringing stability within the department. Warren has been able to successfully do both.”*
- Individual M, [REDACTED]

- *“I have always found that Warren is honest, caring and carries out his duty and responsibility with due diligence. He is a well-respected member of staff amongst the pupils as well as other staff members, his colleagues. Warren also has an excellent rapport with people of all ages.”*

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found 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 recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Warren Mitchell 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered Part 1 of the Teachers' Standards in particular section 6; make accurate and productive use of assessments:

- Know and understand how to assess the relevant subject and curriculum areas including statutory assessment requirements.

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

The findings of misconduct are particularly serious as they include a finding of dishonesty which involved engaging in the maladministration of coursework.

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

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Mitchell, which involved engaging in maladministration of coursework and lacking integrity and/or being dishonest, 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 Mitchell accepted that he made a wrong decision that he deeply regrets. The panel felt that this was simply a one off period of time and that Mr Mitchell made a poor decision which they felt would not be repeated again. He had shown insight and regret in respect of his behaviour." I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Mitchell was not treated with the utmost seriousness when regulating the conduct of the profession." 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 Mitchell himself, the panel comment “No evidence was submitted to attest to Mr Mitchell’s history or ability as a teacher. Nor was any evidence submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Mitchell contributed significantly to the education sector.” A prohibition order would prevent Mr Mitchell from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

I have placed considerable weight on the panel’s comments “The panel noted a number of character references submitted on behalf of Mr Mitchell. These pertained to his professional conduct both before and after the misconduct which was the subject of this hearing. Taken together it was clear to the panel that this was an isolated incident which was an error of judgement. It was felt this would be unlikely to be repeated due to the significant steps taken by Mr Mitchell to address the underlying issues which led him to do this.”

The panel also said they were, “of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present.”

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



Decision maker: John Knowles

Date: 21 October 2022

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