



Teaching  
Regulation  
Agency

# **Ms Evashni Pather: Professional conduct panel outcome**

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

**November 2022**

## Contents

Introduction	3
Allegations	4
Preliminary applications	5
Summary of evidence	7
Documents	7
Witnesses	7
Decision and reasons	7
Findings of fact	7
Panel's recommendation to the Secretary of State	14
Decision and reasons on behalf of the Secretary of State	17

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

**Teacher:** Ms Evashni Pather

**Teacher ref number:** 1076149

**Teacher date of birth:** 18 January 1984

**TRA reference:** 18625

**Date of determination:** 16 November 2022

**Former employer:** Bridge Academy, Hackney

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by virtual means, to consider the case of Ms Evashni Pather,

The panel members were Ms Nicola Hartley (lay panellist – in the chair), Mr Aidan Jenkins (teacher panellist) and Ms Joanna Hurren (teacher panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

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

Ms Pather was not present and was not represented.

The hearing took place in public, save for specific matters relating to [REDACTED] that were heard in private. The hearing was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 4 August 2022.

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

Whilst she was employed as a Sociology Teacher at The Bridge Academy Hackney between 1 September 2018 and 31 May 2019:

1. She failed to maintain high standards with regards to her attendance and/or she failed to comply with Part 5 of the school's sickness absence policy and procedure;
2. She failed to respond to one or more reasonable requests from the school in that she did not provide any / or any sufficient evidence to justify her repeated absence from work for ill health throughout her employment at the school;
3. She provided one or more documents to support one or more of her absences which were fabricated, inaccurate and/or misleading, namely;
  - a. She supplied a fitness to work note dated 25 September 2018 purporting to be from a GP surgery and signed by Dr C asserting that she had been diagnosed with a [REDACTED]:
    - i. The GP surgery had not in fact issued the sicknote;
    - ii. The signature was not that of Dr C
    - iii. She failed to provide any genuine evidence that she had in fact been diagnosed with a [REDACTED];
  - b. She supplied a discharge summary from NHS Trust B with a signed handwritten note purportedly from Dr D asserting that she had been diagnosed with a [REDACTED] where:
    - i. The handwritten note had not been written by Dr D;
    - ii. The signature was not that of Dr D;
    - iii. The discharge summary itself did not contain any evidence that she had in fact been diagnosed [REDACTED];
    - iv. She failed to provide any genuine evidence that she had in fact been [REDACTED];
4. Her conduct as may be found proven at Allegation 2 and/or 3 above lacked integrity and/or was dishonest.

In the absence of a response from the teacher, the allegations are not admitted.

Ms Pather has also not admitted either unacceptable professional conduct or conduct that may bring the profession into disrepute.

## **Preliminary applications**

### **Proceeding in Absence**

The panel has considered whether this hearing should continue in the absence of Ms Pather.

The panel is satisfied that the TRA has complied with the service requirements of paragraph 19a to c of the Teachers' Disciplinary (England) Regulations 2012.

The panel is also satisfied that the notice of proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession updated April 2018.

The panel has determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel has taken as its starting point the principle from *R v Jones* that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel has recognised that fairness to the professional is of prime importance but it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional as was explained in *GMC v Adeogba & Visvardis*.

In making its decision, the panel has noted that the teacher may waive her right to participate in the hearing. The panel has firstly taken account of the various factors drawn to its attention from the case of *R v Jones*.

The panel is satisfied that Ms Pather is aware of the hearing taking place. Ms Pather has responded on 18 March 2021 to correspondence sent to her indicating that she was content with the case being considered virtually but that she would not intend to be present at the hearing. The presenting officer informed the panel that only one postal and email address was known to the TRA and The Bridge Academy Hackney (the "School"), and that correspondence has been sent using that postal and email address. Given that, on one occasion, Ms Pather responded, the panel was assured that Ms Pather was in receipt of the correspondence. Save for responding on one occasion, Ms Pather has not responded to any other communication sent to her. The panel therefore considers that Ms Pather has waived her right to be present at the hearing in the knowledge of when the hearing is taking place and the means by which it is to be heard.

Ms Pather has not indicated any wish to adjourn in order to attend, or in order for a representative to attend on her behalf. As referred to above Ms Pather has responded once to previous correspondence indicating that she did not intend to attend the hearing and has not responded at all to the current notice of hearing. The panel did not, therefore, consider that it was likely that an adjournment would result in Ms Pather attending the hearing voluntarily.

Whilst the panel does not have the benefit of any representations made by Ms Pather, the panel has noted that two of the witnesses relied upon by the TRA are to be called to give evidence. The panel can test that evidence in questioning those witnesses, considering such points as are favourable to Ms Pather as are reasonably available on the evidence. The panel is able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard Ms Pather's account.

The panel recognises that the efficient disposal of allegations such as these is required to maintain the confidence in the profession. The conduct alleged is said to have taken place whilst Ms Pather was employed at the School. The School will have an interest in this hearing taking place, and there has already been at least one adjournment.

The panel has recognised that the allegations against Ms Pather are serious and that there is a real risk that if proven, the panel will be required to consider whether to recommend that Ms Pather ought to be prohibited from teaching.

The panel notes there are two witnesses prepared to give evidence at today's hearing and that it would cause inconvenience for them to arrange to attend on another day. Delaying the case further may impact upon the memories of those witnesses.

The panel has decided to proceed with the hearing in the absence of Ms Pather. The panel considers that in light of her waiver of her right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taken account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

### **Excluding Public from the Hearing**

The panel sought representations from the presenting officer as to whether parts of the hearing in which references to [REDACTED] were to be made ought to be in private. The presenting officer had no objection to this course of action. The panel decided that it would be in the public interest to hear these portions of the evidence in private in order to uphold the principle that private medical matters are confidential. The panel considered that this departure from the general rule that hearings are to take place in public was justified to the extent and to no more than the extent that the panel considered

reasonably necessary in order to serve the purpose of protecting confidential medical information.

## **Summary of evidence**

### **Documents**

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

Section 1: Notice of proceedings and correspondence with teacher – pages 4 to 45

Section 2: Teaching Regulation Agency witness statements – pages 46 to 65

Section 3: Teaching Regulation Agency documents – pages 66 to 195

The panel decided to admit a letter to Ms Pather dated 8 November 2022 and an email dated 11 November 2022. The panel considered that it was fair and reasonable to admit these documents in order that it could have regard to communications with Ms Pather in connection with the hearing, when considering the proceeding in absence application.

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 Individual A [REDACTED] and Individual B [REDACTED] both called by the presenting officer.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

On 1 September 2018, Ms Pather commenced her employment at the School. On 17 May 2019, Ms Pather resigned from her position at the school.

### **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:

**Whilst you were employed as a Sociology Teacher at The Bridge Academy Hackney between 1 September 2018 and 31 May 2019:**

**1. You failed to maintain high standards with regards to your attendance and/or you failed to comply with Part 5 of the school's sickness absence policy and procedure;**

Paragraph 4 of the School's sickness absence policy and procedure required teaching staff to contact the designated person responsible for cover arrangements as early as possible before 7:00am on the first day of absence, providing details of the nature of the staff member's injury or other absence, the expected length of absence from work, contact details, and any outstanding or urgent work that requires attention. After notifying the designated person responsible for cover arrangements, staff were required to also make their line manager aware.

Individual B at the School gave evidence to the panel that there was a sickness absence voicemail that absent staff members could call. She also gave oral evidence that Ms Pather at times would call the sickness absence voicemail but not always, sometimes she would inform another member of staff of her absence, who would then communicate her absence to others within the School, and sometimes the School was unclear regarding Ms Pather's attendance.

Paragraph 5.2 of the School's sickness absence policy and procedure required that employees obtain a fit note from their doctor for absences of more than one week, stating that the employee is not fit for work and the reason(s) why. This had to be forwarded to the human resources department as soon as possible. If the absence continued, further fit notes were required to be provided to cover the whole period of absence.

Paragraph 5.4 of the School's sickness absence policy and procedure also required that employees provide documentation from their doctor for each absence, regardless of the duration of sickness, where the School was concerned about the reason for absence.

Ms Pather had intermittent periods of absence in every month that she was employed at the School, some of which exceeded 7 days, for example from 29 November until 20 December 2018 and 1 February 2019 until 14 February 2019. Despite this, both the Individual B and Individual A gave evidence that no fit note was provided covering these periods of absences until April and May 2019. This is supported by an email from Individual A to Ms Pather stating that the School had not received evidence to support any of her absences over many months, despite various requests. The panel has seen evidence of the School requesting fit notes from Ms Pather, including an email to her on 5 March 2019 and the witnesses gave evidence confirming that such requests were made.

Both Individual B and Individual A gave evidence that staff are made aware of the School's sickness absence policy and procedure along with other School policies on first joining the School and are told that they had to ensure that they read the policies. Individual B met with Ms Pather on her first day to go through this and other policies with her. Individual B also gave evidence that the requirement to provide a fit note to cover a



period of absence of more than 7 days was also contained in Ms Pather's contract of employment. Individual B stated that when members of staff were invited to informal or formal meetings under the policy, the employee was directed to that policy. Ms Pather was directed to the School's sickness absence policy and procedure when she was invited to attend a Stage 1 meeting under that policy. The policy was referred to in the letter of 14 January 2019 sent to Ms Pather following the Stage 1 meeting held on 11 January 2019. She was also provided with the policy when she was invited on 8 February 2019 to attend the Stage 2 meeting.

The panel found Ms Pather to have breached the School's sickness absence policy and procedure in failing to follow requirements to report her absence from the School and in failing to produce the fit notes required as soon as possible. The panel was satisfied that Ms Pather was, or should have been, aware of the School's sickness absence policy and procedure.

The panel, therefore, found this allegation proven.

**2. You failed to respond to one or more reasonable requests from the school in that you did not provide any / or any sufficient evidence to justify your repeated absence from work for ill health throughout your employment at the school;**

Both Individual B and Individual A gave evidence that no fit note was provided purporting to cover these periods of absences until April and May 2019. This is supported by an email from Individual A of 13 May 2019 to Ms Pather stating that the School had not received evidence to support any of her absences over many months, despite various requests. The panel has seen evidence of the School requesting fit notes from Ms Pather, including on 5 March 2019 and the witnesses gave evidence confirming that such requests were made.

The panel, therefore, found this allegation proven.

**3. You provided one or more documents to support one or more of your absences which were fabricated, inaccurate and/or misleading, namely;**

**a. You supplied a fitness to work note dated 25 September 2018 purporting to be from a GP surgery and signed by Dr C asserting that you had been diagnosed with a [REDACTED] where:**

**i. The GP surgery had not in fact issued the sicknote;**

**iii. You failed to provide any genuine evidence that you had in fact been diagnosed with a [REDACTED];**

The panel has seen an email from the practice manager of the surgery named on the fit note. The panel first considered whether to admit that email, given that it contained hearsay evidence of someone who would not be appearing to give oral evidence to the

panel. The panel did not consider the evidence to be the sole or decisive evidence in support of the allegations; the panel was able to consider the fit note itself and also evidence given by Individual A as to other steps he had taken to verify the fit note. The panel was conscious of the seriousness of the allegations and that no reasons had been provided as to why the practice manager was not in attendance at the hearing, nor whether any steps had been taken to secure her attendance. The notice of hearing did not specify that the practice manager would attend to give oral evidence, and Ms Pather therefore had no expectation that the practice manager would attend. On balance, given that the evidence could be corroborated by other evidence, the panel decided to admit the evidence and would take into account the fact that no formal witness statement had been provided by the practice manager when determining the weight to attach to the evidence.

Individual A gave evidence that Ms Pather provided the fit note on 15 May 2019. He stated that he was suspicious about the note given the dates specified within it, and the time it had taken her to produce the fit note. He initially took the step of having his team scan the QR code on the fit note and it was not recognised. He then contacted the surgery named on the fit note to confirm whether it had been issued by that surgery. The practice manager responded to confirm that the fit note was not issued by that practice. Further information was sought, and the practice manager responded stating that no documents had been printed from the surgery's computer as the surgery would have been able to trace it on an audit trail, and that she could not say from where Ms Pather obtained the certificate.

The panel examined the fit note itself. The date on the fit note was 25 September 2018, yet it covered a period in the future from 5 October 2018 until 18 April 2019. It also referred to having assessed Ms Pather's case on 29 September 2018, after the date that the fit note was purported to be signed.

Ms Pather was confronted with the belief that the fit note was not genuine, and further evidence was requested of Ms Pather to support her sickness absence and to support the validity of the fit note. Ms Pather responded that the fit note was provided by her doctor and was exactly what she was issued. She then resigned from the School, rather than providing the copious amounts of evidence of hospital appointments that Ms Pather would likely have been in possession of if she was suffering the medical condition referred to on the fit note.

Given the inconsistencies of the dates stated on the fit note, the inability for the QR code to be recognised and Ms Pather's failure to provide other supporting evidence, the panel considered that it could place some weight upon the email from the practice manager corroborating that the fit note had not been issued by the surgery. The panel did not consider that the fit note was genuine. The panel, therefore, found allegation 3a i and iii proven.

**b. You supplied a discharge summary from NHS Trust B with a signed handwritten note purportedly from Dr D asserting that you had been [REDACTED] where:**

- i. The handwritten note had not been written by Dr D;**
- ii. The signature was not that of Dr D;**
- iii. The discharge summary itself did not contain any evidence that you had in fact been diagnosed with a [REDACTED] treatment;**
- iv. You failed to provide any genuine evidence that you had in fact been diagnosed with a [REDACTED];**

The panel first considered the admissibility of a witness statement prepared for the purpose of these proceedings provided by a junior doctor whose name appears on a discharge summary dated 19 April 2019 provided by Ms Pather to the School. The panel first considered whether that statement was the sole and decisive evidence in support of this allegation. The panel had sight of the discharge summary itself and was able to examine apparent inconsistencies in that document with the conditions that Ms Pather had informed the School that she was suffering from. There was no reason to believe the junior doctor had fabricated the matters set out in their witness statement. The panel took into account the seriousness of the allegations but considered that it would have been disproportionate to require the junior doctor to attend to give evidence given that the doctor is subject to professional obligations requiring honesty. The panel, therefore, decided that the witness statement of the junior doctor was admissible.

The junior doctor stated that they could not recall whether Ms Pather had been their patient. The junior doctor confirmed that they had not written anything on the discharge summary and that any notes to be made would have been added on the system rather than on the document itself. The junior doctor stated that the writing by hand on a discharge summary was not common practice. The junior doctor also stated that the discharge summary had originally been written by someone else, and their name appeared on it only because the junior doctor had logged into the system, presumably because Ms Pather was ready to be discharged and they were ensuring that she was ready for this. They also confirmed that the handwritten signature that appeared on the discharge summary was not their own and that the forging of their signature was unacceptable.

The panel considered the discharge summary itself. The name of the signature appears to replicate the junior doctor's own name, yet the panel had confirmation from the junior doctor that it was not their signature.

The panel also noted that the only reference to Ms Pather suffering from [REDACTED] was in a handwritten addition to the discharge summary, and the junior doctor has confirmed that this was neither their handwriting, nor was it common practice to

handwrite information on a discharge summary. It also appeared peculiar to the panel that the handwritten note set out specific dates of Ms Pather's admission to hospital. This was particularly so when the past medical history set out in the typed part of the discharge summary referred to only [REDACTED]. Had Ms Pather been suffering from [REDACTED] and had a number of hospital admissions, the panel would have expected to see reference to this in the past medical history, particularly since Ms Pather had told the School that this was a recurring condition.

Doubt is further cast upon the discharge summary by Ms Pather's failure to provide any supporting documentation regarding her condition. Had she suffered from the conditions claimed, it would be expected that Ms Pather would have an array of communications from the hospital that could have evidenced her condition and her absence from work.

The panel did not consider the handwritten additions to the discharge summary to be genuine and therefore found the entirety of allegation 3b proven.

#### **4. Your conduct as may be found proven at Allegation 2 and/or 3 above lacked integrity and/or was dishonest.**

The panel found that Ms Pather failed to observe the trust that the School placed in her and that she disrupted the learning of the pupils she was employed to teach, thereby failing to treat her colleagues and the pupils with the respect they deserved. The panel considered that her actions fell significantly below the ethical standards of her own profession and, therefore, lacked integrity.

The panel considered Ms Pather's state of mind when she failed to provide fit notes to the School over a sustained period of time, and when she eventually provided a fabricated fit note and discharge summary. Ms Pather must have known that she was trying to conceal any real reason for her absence. Ordinary decent people would consider her actions to be dishonest. The panel was therefore satisfied that her conduct as found proven at allegation 2, 3ai, 3aiii and 3b was dishonest.

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

#### **3. You provided one or more documents to support one or more of your absences which were fabricated, inaccurate and/or misleading, namely;**

##### **ii. The signature was not that of Dr C**

Although there was evidence that the fit note provided by Ms Pather to the School had not been issued by the practice named on the fit note, the panel noted that there was no name of any doctor specified on the fit note, nor was the signature legible. Therefore, the panel did not consider that it could find proven that the signature was not of Dr C, given there was no indication of who Dr C was.

The panel therefore found this allegation not proven.

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

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

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 Ms Pather, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Ms Pather 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

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.

The panel was satisfied that the conduct of Ms Pather fell significantly short of the standard of behaviour expected of a teacher. Her dishonesty over a sustained period of time undermined the trust that the School placed in her and disrupted the learning of the pupils she was employed to teach, thereby failing to treat her colleagues and the pupils with the respect they deserved.

The panel also considered whether Ms Pather displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that the offence of fraud or serious dishonesty was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

Accordingly, the panel was satisfied that Ms Pather was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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.

In considering the issue of whether Ms Pather was guilty of conduct that may bring the profession into disrepute, the panel also considered whether Ms Pather displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that the offence of fraud or serious dishonesty was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

The panel therefore found that Ms Pather's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1,2,3ai, 3aiii, 3b and 4 proved, the panel further found that Mr Pather'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Ms Pather and whether a prohibition order is necessary and proportionate. 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 all of them to be relevant in this case, namely, the safeguarding and wellbeing of pupils; the protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the impact of Ms Pather's dishonesty upon the learning of the pupils. She mostly taught pupils aged 16 to 18 who had elected to study sociology, and also some pupils in Key Stage 4. Her failure to maintain high standards with regards to her attendance and failure to follow the school's sickness absence policy and procedure impacted upon the continuity of the pupils' learning. Leading the School to believe that

Ms Pather's absences were a result of a serious condition for which she was receiving treatment, resulted in the School treating Ms Pather sympathetically and supportively. For a considerable period of time the School believed what they were told by Ms Pather regarding her illness, despite evidence of that condition not having been provided. This deprived the opportunity for the School to put in place permanent arrangements for the teaching of pupils. Furthermore, Ms Pather's actions had a considerable financial impact on the School in terms of the sickness payments she received, despite not having evidenced her condition, in providing cover for her classes and in seeking to recover monies paid to her. It would have also impacted those staff members within the School who had to take on additional work to cover for her, and those who provided the necessary support to Ms Pather during this time.

The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Pather 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 Ms Pather was outside that which could reasonably be tolerated.

The panel considered that the adverse public interest considerations above outweigh any interest in retaining Ms Pather in the profession, since her behaviour fundamentally breached the standard of conduct expected of a teacher, and she sought to exploit the trust placed in her as a member of the profession.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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... well-being of pupils...;

- abuse of position or trust...

- dishonesty or a lack of integrity, including the deliberate concealment of their actions ... especially where these behaviours have been repeated or had serious consequences...;

collusion or concealment including: any activity that involves knowingly substantiating another person's statements where they are known to be false;... concealing inappropriate actions;...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, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

The panel has found Ms Pather's actions were deliberate and dishonest.

There was no evidence to suggest that Ms Pather was acting under extreme duress, eg a physical threat or significant intimidation and, in fact, the panel found Ms Pather's actions to be calculated and motivated, albeit that the motive for her behaviour was not apparent or explained.

There is no evidence of Ms Pather having demonstrated exceptionally high standards in both her personal and professional conduct and having contributed significantly to the education sector.

There was no evidence that Ms Pather was previously subject to disciplinary proceedings or warnings.

Ms Pather has presented no evidence testifying to her character. The panel noted that the [REDACTED] referred to Ms Pather having been recommended for the position at the School and having successfully passed the School's recruitment and selection process. She referred to Ms Pather having previous experience of many years in the teaching profession, and that as far as she was aware Ms Pather was performing as a teacher during the times that she was in attendance. The panel had no CV before it to fully understand Ms Pather's teaching background but understood that Ms Pather was not an inexperienced teacher and ought to have fully understood the reasons why adherence to the School's absence policy and procedure was important.

The only evidence of Ms Pather having expressed any remorse or insight was contained in her email resigning from the School. She stated that she completely understood that her absences would have directly impacted the teaching and learning of exam classes, and she apologised for the disruption and inconvenience caused. She attributed this to having had an exceptionally traumatic year and unforeseen circumstances having led to her current situation.

Ms Pather has not co-operated with the TRA's investigation, largely not responding to correspondence sent to her, nor has she attended this hearing or provided any representations for the panel to consider. No reasons have been provided as to why Ms Pather chose to act in this way, and the panel were not able, therefore, to explore any mitigating circumstances that might have impacted her behaviour. The panel noted that



the School had been supportive towards Ms Pather and that there were opportunities for her to explain her position, including during occupational health appointments arranged for her which she failed to attend.

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 Ms Pather 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 Ms Pather. Ms Pather's breach of the trust placed in her by the School 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. These cases include fraud or serious dishonesty. The panel found that Ms Pather was responsible for dishonesty and the panel considered it to be of a serious nature, it having continued over a sustained period with a considerable impact on the School, her colleagues and pupils.

There was only very limited evidence of Ms Pather expressing any remorse, in her email of resignation, and the panel could not assess the risk of repetition. Nevertheless, given that the panel was not aware of any circumstances that may have led to her behaviour, this 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 provision for a review period after 5 years.

## **Decision and reasons on behalf of the Secretary of State**

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

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

In this case, the panel has found the majority of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found an allegation not proven, I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Ms Evashni Pather should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Ms Pather 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

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.

The panel finds that the conduct of Ms Pather fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty over a sustained period of time, which the panel observed "undermined the trust that the School placed in her and disrupted the learning of the pupils she was employed to teach, thereby failing to treat her colleagues and the pupils with the respect they deserved."

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 Ms Pather, 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, "Her (Ms Pather) failure to maintain high standards with regards to her attendance and failure to follow the school's sickness

absence policy and procedure impacted upon the continuity of the pupils' learning." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The only evidence of Ms Pather having expressed any remorse or insight was contained in her email resigning from the School. She stated that she completely understood that her absences would have directly impacted the teaching and learning of exam classes, and she apologised for the disruption and inconvenience caused. She attributed this to having had an exceptionally traumatic year and unforeseen circumstances having led to her current situation." In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils'. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Pather 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 Ms Pather herself, the panel comment "Ms Pather has presented no evidence testifying to her character. The panel noted that the [REDACTED] referred to Ms Pather having been recommended for the position at the School and having successfully passed the School's recruitment and selection process. She referred to Ms Pather having previous experience of many years in the teaching profession, and that as far as she was aware Ms Pather was performing as a teacher during the times that she was in attendance. The panel had no CV before it to fully understand Ms Pather's teaching background but understood that Ms Pather was not an inexperienced teacher and ought to have fully understood the reasons why adherence to the School's absence policy and procedure was important." A prohibition

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

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Pather 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, 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 a five year review period.

I have considered the panel's comments "The panel found that Ms Pather was responsible for dishonesty and the panel considered it to be of a serious nature, it having continued over a sustained period with a considerable impact on the School, her colleagues and pupils."

The panel has also said, "The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. These cases include fraud or serious dishonesty. The panel found that Ms Pather was responsible for dishonesty and the panel considered it to be of a serious nature, it having continued over a sustained period with a considerable impact on the School, her colleagues and pupils."

I have considered whether a 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 five year review period is sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious dishonesty and the and lack of full insight and remorse.

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

**This means that Ms Evashni Pather is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** She may apply for the prohibition order to be set aside, but not until 25 November 2027, five years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Pather remains prohibited from teaching indefinitely.

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

Ms Evashni Pather has a right of appeal to the King's Bench Division of the High Court within 28 days from the date she is given notice of this order.

A handwritten signature in black ink, appearing to read 'John Knowles', written in a cursive style.

**Decision maker: John Knowles**

**Date: 21 November 2022**

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