



Teaching
Regulation
Agency

Dr Richard Evans: Professional conduct panel outcome

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

May 2023

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

Teacher:	Dr Richard Evans
Teacher ref number:	8712146
Teacher date of birth:	7 May 1957
TRA reference:	3451
Date of determination:	9 to 19 May 2023
Former employer:	Copland Community School, London

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 to 19 May 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Dr Richard Evans.

The panel members were Mr Gamel Byles (teacher panellist – in the chair), Mrs Maxine Cole (lay panellist) and Mrs Shabana Robertson (lay panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Charlotte Watts of Browne Jacobson LLP solicitors.

Dr Evans was present and was represented by Ms Wendy Hewitt of counsel.

The hearing was recorded and took place in public, save for certain parts of Dr Evans' evidence in which private medical issues were addressed, which were heard in private pursuant to an earlier direction made in these proceedings.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 20 July 2022.

It was alleged that Dr Evans was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Deputy Headteacher Finance and Resources at the Copland Community School, London, between September 1997 and April 2009:

1. He received payments that amounted to an improper use of school funds and/or were not paid in compliance with the School teachers pay and conditions document in that:
 - (a) In or around March 2006 he received a lump sum payment of £15,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the fifth Ali Memo dated 13 March 2006;
 - i. Which was purportedly justified on the basis of savings to the school in not replacing a curriculum deputy head despite the fact that he had, not more than two months previously, received further one-off payments totalling £15,000 for "efficiency savings" by not replacing this same curriculum deputy head.
 - (b) In or around June 2006 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the third NSD Memo dated 6 June 2006 despite;
 - i. the fact that the memo referred to extra tasks taken on with regard to the new school development, to which he had also been separately paid several hundred pounds for attendance at meetings; and
 - ii. the fact that he was already in receipt of a £24,000 per year salary increase, for working on the same new school development.
 - (c) In or around September 2006 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the sixth Ali memo, entitled "Cover for Curriculum Deputy Head", dated September 2006;
 - i. Which was purportedly justified on the basis of "outstanding achievement" and covering the duties of the former curriculum deputy head, despite the fact that he had received payments of at least £30,000 for covering such work in January and March 2006.

- (d) In or around January 2007 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the seventh Ali memo, entitled "Cover for Curriculum Deputy Head", dated January 2007;
- i. Which was purportedly justified on the basis of covering 'payment for the Jan- June period' but would have over exceeded the purported salary saving in relation to the former curriculum deputy head.
- (e) In or around March 2007 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the Chalkhill memo, entitled "Support for Chalkhill Primary School" dated 1 March 2007 which;
- i. was purportedly justified on the basis of the support he provided in Mathematics to the school in special measures, but which support must have been completed during the working day for which he was already paid a fulltime salary, or during time for which he was already in receipt of salary enhancements of approximately 70% of his basic salary; and
 - ii. for the reasons mentioned at 1ei above, amounted to a double-counting of additional responsibilities and payments.
- (f) In or around May 2007 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the fourth NSD memo, entitled "extra responsibilities" dated May 2007 despite;
- i. the purported justification "to show appreciation for the enormous extra work that your team are doing...continuing to cover [former curriculum deputy head] ...thus giving us the significant saving for a deputy heads salary" being repetitive of the justification given for payments already made in September 2006 and January 2007 which exceeded the purported salary saving in relation to the former curriculum deputy head; and
 - ii. him having completed work insufficient in relation to the new school development to justify additional one-off payments in advance of his salary increase of £2,000 which he was paid from September 2005 and the additional one-off payments already paid to him.
- (g) From around June 2007 he received monthly payments of £4,000 paid to him via PAYE as a salary increase, by the Brent London Borough Council, pursuant to the fifth NSD Memo dated June 2007 which;

- i. was proposed on the basis of his work relating to the New School Development Project despite this involving limited preparatory matters and soft works;
 - ii. failed to take account of the permanent salary increase of £24,000 which he had been receiving from September 2005 onwards, together with payments of £46,000 for work on the New School Project (second to fourth NSD Memo's);
 - iii. for the reasons mentioned at 1gi and/or 1gii above amounted to double counting of additional responsibilities and payments for which he was already being remunerated.
- (h) in or around October 2007 he received a lump sum payment of £30,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the sixth NSD memo, dated 15 October 2007 which;
 - i. was purportedly justified on the basis of "outstanding work that you are all doing in relation to the New School Development" and for "assisting leading the development plus normal duties"
 - ii. amounted to double-counting of additional responsibilities and payments, for which he was already receiving £6,000 per month for this, following salary increases of £24,000 and £48,000 from September 2005 and June 2007
- (i) in or around July 2008 he received a lump sum payment of £10,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the memo dated 7 July 2008 which;
 - i. was recommended as a reward for "amazing effort" in turning around the science and ICT faculties despite the fact that other staff, directly involved with the science and ICT faculties, were not similarly rewarded;
 - ii. was paid despite previous payments and continued salary enhancements which were already being paid to him.
- (j) In or around October 2008 he received a lump sum payment of £20,000 paid to him via PAYE, by the Brent London Borough Council, pursuant to the seventh NSD Memo dated 9 October 2008 which;
 - i. was purportedly justified payment for reward on the basis of "carrying out tremendous continued additional workload over and above their normal day to day school activities" despite the fact that

he was already in receipt of an additional salary of £72,000 per year purporting to be for additional work undertaken on the New School Project

2. His conduct as may be found proven at 1 above was unconscionable in that he appreciated the risk that such payments were an improper use of school funds but failed to make proper enquiries with the Headteacher and/or Governing Body to ensure that these payments could be justified and were a proper use of school funds;
3. He acted with a lack of integrity and/or were dishonest in relation to his conduct, as may be found proven, at 1 and/or 2 above in that he knowingly received payments from school funds which were unjustified when;
 - (a) his position within the school as Deputy Head Teacher Finance and Resources meant he was involved to a degree in the financial management of the school;
 - (b) he was aware of the cumulative effect of all the payments made to him pursuant to all of the memos; and
 - (c) he failed to make any enquiries to ensure the payments received by him were a proper use of school funds, even where there could have been no objective justification for the payments he received.

Dr Evans made various admissions in relation to the facts of allegation 1, with reference to the receipt of monies and the amounts received. However, the allegation was denied in formal terms on the basis the wording of allegations 1(a) to (j) made reference to additional factual matters that were not admitted. Dr Evans denied allegations 2 and 3 in their entirety.

Dr Evans also denied that his actions amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Preliminary applications

Application to admit further documentation

An application was made on behalf of Dr Evans to admit three documents, namely:

- A signed witness statement from Individual M dated 23 March 2011;
- An email from Logix Limited to Dr Evans dated 9 December 2009; and

- A document produced by Dr Evans addressing audits at his former school.

The TRA did not object to the admission of any of these documents. The panel therefore decided to admit them on the basis that they were relevant and it was not unfair to do so.

Application of no case to answer

The panel considered a submission on behalf of Dr Evans, at the conclusion of the TRA's case, that there was no case to answer in relation to the allegations.

The panel had careful regard to the submissions of both parties and it accepted the legal advice provided.

On behalf of Dr Evans, it was submitted that there was no evidence before the panel to find these allegations proved, having particular regard to the manner in which they had been pleaded.

Particular reliance was placed upon the evidence deriving from related criminal proceedings whereby Dr Evans was not, ultimately, prosecuted for any offence. Having regard to that outcome, the original investigation was criticised and reference was also made to nature of the School's pay review processes and the undertaking of audits.

It was submitted that regard should be had to the context in which payments were made, with reference to what was asserted to have been the School's positive performance at the relevant time.

In support of the application, it was also contended that the finding of the High Court Judge, that Dr Evans did not believe that the bonus payments made were unlawful, was a material consideration as was the fact that Dr Evans was only ordered to repay a relatively small sum in comparison with the total amount he had received.

The panel was also invited to consider counsel's opinion, namely Individual L, dated 14 October 2011, which addressed, *inter alia*, the legality of bonus payments. It was submitted that this opinion should be given more weight than Witness A's evidence. Witness A was the TRA's only witness who gave evidence regarding the investigation undertaken by Brent Council. The panel was referred to specific paragraphs of Individual L's written opinion in this regard.

For all these reasons, even taking the TRA's case at its highest, it was submitted that the panel could not find these allegations proved.

The submissions made on behalf of Dr Evans in relation to these issues were carefully considered by the panel.

The application was opposed by the TRA.

In summary, although it was accepted that the allegations could have been drafted in a clearer way, it was submitted on behalf of the TRA that there was a case to answer. The TRA's position was that there was clear evidence that Dr Evans received these payments and the quantity and volume gave rise to a prima facie case. It was submitted that the TRA was not required to prove the payments were fraudulent or otherwise illegal. The criticisms made of Witness A and the Council's investigation were said not to be relevant. Insofar as reference was made to Dr Evans' work and wider contributions, it was submitted by the TRA that such matters were not relevant at this stage.

In considering this submission, the panel carefully considered all of the evidence before it.

Having done so, the panel concluded, on balance, that Dr Evans' application should not succeed.

First, for the purposes of this submission, the panel was satisfied that it could not be said that the evidence relating to any of these allegations was so unreliable that the allegations were not capable of being proved.

In arriving at that conclusion, the panel recognised that the allegations themselves had been drafted in a manner that may be regarded as complex.

However, it did not consider that those difficulties were insurmountable.

Further, insofar as the panel was presented with various opinions regarding whether payments were made in accordance with the applicable pay and conditions documents, it will be necessary to examine the extent to which, if at all, they may be relevant and of assistance at the conclusion of all of the evidence.

With specific reference to the submission made on behalf of Dr Evans, the extent to which Individual L's opinion was consistent, if at all, with the findings made in the judgment in the High Court proceedings would need to be carefully considered. The panel was informed that Individual L had been instructed on behalf of Individual F, [redacted], though the precise circumstances of his instruction were unknown.

Secondly, on balance, the panel was satisfied that the nature of the evidence that was available was not so unsatisfactory that the panel could not find these allegations proved.

Whether the evidence was sufficient to result in the allegations being proved will be a matter for the panel to consider in due course at the conclusion of the evidence, having regard to the burden and standard of proof. For that reason, the panel determined it would not be appropriate to pass further comment on the evidence presented by the TRA in relation to these matters.

The panel therefore concluded there was a case to answer in relation to each of these allegations.

The submission that there is no case to answer is accordingly dismissed.

Summary of evidence

Documents

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

Section 1: Notice of proceedings and response – pages 13 to 25

Section 2: Teaching Regulation Agency witness statements – pages 27 to 889

Section 4: Teaching Regulation Agency documents – pages 891 to 1470

Section 5: Teacher documents – pages 1472 to 2136

In addition, as noted above, the panel agreed to accept three late documents which were admitted to the bundle at pages 2137 to 2140.

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 Witness A, [redacted].

Dr Evans also gave evidence to the panel and called the following witnesses to give evidence in support of his case:

- Witness B, [redacted].
- Witness C, [redacted].
- Witness D, [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.

Introduction

Dr Evans commenced employment at Copland Community School and Technology Centre Foundation ("the School") in September 1997.

The School was located within the London Borough of Brent ("the Council").

The School was a foundation school. Decision-making was devolved to its governing body. The Council was the principal source of funding, by way of a delegated budget. However, it did not have direct, day-to-day control over school funds.

Dr Evans was employed as deputy headteacher (finance and resources) with a subject specialism of mathematics.

When he started at the School, Dr Evans remuneration was stated to be £36,000 per annum.

The extent of Dr Evans' involvement in and responsibility for financial matters and management at the School was a source of contention, which is addressed further below in the panel's findings.

In April 2009, the Council's Audit and Investigations Unit was alerted, initially through media coverage, of concerns regarding bonus payments allegedly made to individuals at the School.

Documentation subsequently obtained by the Council identified Dr Evans as one of the recipients of such payments. It was alleged that, over a number of years, he received payments totalling over £700,000 in addition to his basic remuneration.

Between 30 April and 5 May 2009, officers from the Audit and Investigations Unit attended the School and identified a number of documents, including governing body meeting minutes, payroll documentation, invoices and documentation relating to a proposed re-development of the School.

In light of the information obtained, Dr Evans, along with Individual F, was suspended with effect from 13 May 2009 pending a formal investigation.

On 22 June 2009, the School's governing body was replaced by an interim executive board appointed by the Council.

A copy of a report dated 19 October 2009, presented at the conclusion of the Council's investigation, was included in evidence. Paragraph 1.1 of its executive summary records:

"Since at least 2002, Copland School has operated a bonus and additional payments scheme, outside the scope of the statutory provisions for teachers pay. These payments have resulted in at least £1.9 million in payments to the head, deputies and, latterly, assistant heads. The Deputy Head (Finance and

Resources), Richard Evans, has received an estimated £726,000 in additional pay in excess of his basic pay. The majority, some £709,000, has been received in the six years between 2003/04 and 2008/09. Although some of these additions relate to attendance at out of school activities which may be appropriate, the majority have been paid as bonuses for general achievements, including fund raising and additional responsibility payments for progressing the new school development and covering another deputy head position. These payments are not provided for within the School Teachers Pay and Conditions Document (STPCD)."

The School Teachers Pay and Conditions Document ("STPCD") is a document published each year by the government under powers granted to the Secretary of State by the Education Act 2002.

The STPCD sets out a statutory framework and guidance for teachers' pay, which the governing body of a school must have regard to. This means that "*any party not following this guidance would need to have good reason not to do so and would need to be able to justify any departure from it*".

At the relevant time, for the purposes of these proceedings, in circumstances where the allegations spanned several years, the relevant provisions were materially the same.

The STPCD set out, in particular:

- The minimum and maximum amounts that were permitted to be paid to any teacher.
- A pay "spine", with spine points ranging from L1 to L43, and a salary for each point depending on whether the teacher is in inner London, outer London or elsewhere.
- By paragraphs 6.1 to 6.3, the remuneration of a headteacher, deputy headteacher and assistant headteacher "shall" be based upon the leadership pay spine.
- There was limited provision for the payment of additional sums to teachers.

- First, by paragraph 52:

"the relevant body may make such payments as they see fit to a teacher, including a head teacher, in respect of: (a) continuing professional development undertaken outside the school day; (b) activities relating to the provision of initial teacher training as part of the ordinary conduct of the school; (c) participation in out-of school hours learning activity agreed between the teacher and the head teacher or, in the case of the head teacher, between the head teacher and the relevant body"

- Secondly, by paragraph 53.1, the relevant body was entitled to make provision as an incentive for the recruitment of new teachers and the retention of existing

teachers. Retention allowances by way of periodic payments had to be for a fixed period and could not, save in exceptional circumstances, be renewed.

- Teachers' pay to be reviewed annually and specific provisions were set out for deputy and assistant headteachers.
- When determining the remuneration of a teacher, the relevant body must have regard to its pay policy.
- From 2006, the guidance expressly stated that it "*does not provide for the payment of so called "honoraria" in any circumstances*".

The panel accordingly proceeded from the basis that compliance with the STPCD is and was mandatory, having regard to the Order giving effect to it each year, and was clear in terms of the maximum amounts that can be paid to teachers and the limited circumstances in which they can be departed from.

The School's pay policy, as in force from 1 September 2005 onwards, expressly applied the STPCD to all teachers at the School.

Upon the conclusion of the Council's investigation, the School decided to commence disciplinary proceedings.

That decision was notified to Dr Evans by letter dated 28 September 2009. A disciplinary hearing was subsequently held on 2 November 2009. That hearing proceeded in the absence of Dr Evans following the refusal of his request for a postponement. At the conclusion of the hearing, he was dismissed.

Dr Evans and others were subsequently subject to criminal proceedings, the principal charge being conspiracy to defraud.

However, the prosecution ultimately offered no evidence in respect of any of the charges made against Dr Evans. As a consequence, he was formally acquitted.

Dr Evans also issued unfair dismissal proceedings against the Council in the Employment Tribunal. However, those proceedings were subsequently stayed.

Initially, the stay was implemented pending the outcome of the criminal proceedings referred to above.

The stay was subsequently maintained in response to the Council issuing proceedings, on 10 July 2014, against Dr Evans and other individuals. The Council sought the recovery of sums paid to the defendants as alleged unlawful overpayments from April 2003 to April 2009.

On 16 August 2018, a High Court Judge handed down judgment in that action ("the Judgment").

A copy of the Judgment was included as part of the case papers. It recorded, by way of introduction, that the principal claims brought by the Council, the Claimant in the proceedings, with reference to Dr Evans were that:

“the Defendants were party to a conspiracy to damage the Claimant by unlawful means in making the overpayments. Alternative claims are asserted in breach of fiduciary duty ... [and] knowing receipt of money paid in breach of fiduciary duty ...”

Subsequently, Dr Evans proceeded with his claim against the Council in the Employment Tribunal. Dr Evans was successful in that action, with reference to the fairness of the disciplinary process undertaken by the Council.

In terms of these proceedings, Dr Evans was referred to the General Teaching Council for England ("GTCE") in or around 2009.

That referral was similarly stayed pending the outcome of the various proceedings referred to above.

In the intervening period, the TRA (initially the National College for Teaching and Leadership which preceded it) became the applicable agency of the Department of Education acting (on behalf of the Secretary of State) as regulator of the teaching profession.

By letter dated 25 January 2012, Dr Evans was notified of the statutory changes, introduced by the Education Act 2012 ("the Act"), and their implications.

The parties agreed that the applicable regulatory regime for the purposes of these proceedings was that introduced by the Act, notwithstanding the fact that Dr Evans was referred prior to its commencement. It was also agreed that the applicable disciplinary procedures were the TRA's '*Teacher misconduct: disciplinary procedures for the teaching profession*' introduced in April 2018.

Evidence

The panel had careful regard to the oral and documentary evidence presented and the parties' submissions.

It accepted the legal advice provided.

The panel considered this to be a complex case in terms of the nature and volume of the evidence presented. There were various issues, which permeated the panel's findings, which are addressed by way of preliminary observations.

TRA evidence

The panel heard oral evidence Witness A, called by the presenting officer.

[Redacted]

Witness A was not subject to cross-examination on behalf of Dr Evans.

Dr Evans' position was that the fact of the relevant payments was not in dispute. Further, insofar as Witness A, [redacted], expressed views regarding Dr Evans' involvement in financial matters and the lawfulness of payments, for example, it was submitted that this was opinion evidence.

It was suggested there were other opinions, including from experienced counsel, that ought to carry more weight than Witness A's views. Various aspects of the investigation were also criticised by Dr Evans, including that crucial evidence, particularly his work diaries, was lost.

On this issue, Dr Evans repeatedly asserted in his evidence that these diaries would have included evidence of additional tasks he was undertaking, thereby justifying, to at least some extent, the overpayments.

Returning to Mr Witness A's evidence, it followed that insofar as his evidence addressed factual matters pertaining to the Council's investigation, particularly with reference to the dates and amounts of the payments received by Dr Evans, this was not expressly challenged in these proceedings.

Passage of time

With reference to Witness A's evidence and other evidence presented, the panel took into account the passage of time. The events underpinning the factual allegations spanned the period between 2006 and 2009. Other matters, relevant as part of the wider context to this case, occurred before this period.

In the period since he was suspended, Dr Evans had been asked to account for these matters on multiple occasions, initially as part of the Council's investigation. The fact that Dr Evans' statement in these proceedings was dated 9 September 2022, and that the panel was not presented with his earlier statement in the civil proceedings, was a matter the panel had regard to when considering his evidence.

Specifically, the panel noted the comments in paragraphs 30 to 43 of the judgment regarding the reliability of witnesses' memory, elements of which were repeated in the legal advice received. For instance, the judgment records:

"Of real concern in this case are the risks of considerable interference with memory caused by the procedure of preparing for trial (and, I would add, a prior criminal trial and disciplinary or investigatory proceedings) which can have the effect of establishing in the mind of the witness the matters recorded in his or her own statement and other written material, whether they be true or false, and to cause the witness's memory of events to be based increasingly on this material and their answers as logical conclusions from either written materials or evidence they had heard from other witnesses. It was clear that, through their work in preparing for these and earlier proceedings, the Defendants had developed an extensive knowledge of each other's evidence and arguments. Given the history of this matter and the passage of time, the risk that supposed recollections are in fact reconstructions of what the witness calculates was likely to have happened, or wished had happened, is a real one."

This point of principle was not limited to Dr Evans' evidence and applied with reference to the evidence of other individuals who had presented accounts on more than one occasion.

Hearsay evidence

Following on from this, the panel was presented with extensive hearsay evidence from individuals who were involved in these events.

The panel was satisfied that the admission of such evidence did not give rise to any unfairness in the specific circumstances of this case. It was presented with an agreed bundle and neither party objected to any of the evidence presented on the grounds of admissibility.

Nonetheless, the hearsay evidence presented was considered with appropriate caution and if and where it was relied upon, this is addressed in the panel's reasons, below.

Dr Evans' evidence

Dr Evans denied the allegations and that his actions constituted unacceptable professional conduct or conduct that may bring the profession into disrepute.

Dr Evans accepted certain of the factual particulars as alleged, with reference to the receipt of the payments in question. However, other elements of the pleaded particulars were denied. Dr Evans also denied that any of the payments received amounted to an improper use of school funds or that they were contrary to the STPCD.

Dr Evans gave oral evidence to the panel. As already noted, the panel was mindful of the passage of time when assessing his evidence.

Dr Evans also called the following witnesses to give evidence on his behalf:

- Witness B, [redacted].
- Witness C, [redacted].
- Witness D, [redacted].

Dr Evans also relied upon a statement from Individual E, who was not called to give evidence. Individual E's statement was therefore admitted as hearsay evidence pursuant to a formal request made on Dr Evans' behalf.

The panel took account of all of the evidence presented regarding Dr Evans' prior career, personal and professional achievements. But for the matters before the panel, Dr Evans was a person of good character, with no known disciplinary or regulatory proceedings recorded against him. This was a factor the panel took into account when considering the allegations before it.

Irrelevant material/evidence

The panel formed its own, independent view of the allegations based on the evidence presented to it.

This was a particularly important factor in these proceedings.

The panel was aware, for instance, that Dr Evans was dismissed by the School.

Similarly, Dr Evans relied upon the fact that the criminal prosecution was not, ultimately, maintained against him. The panel was referred to various press reports and related documentation regarding that action which, in turn, recorded the views of various professionals individuals involved in it.

Whilst the panel took due note of this evidence, it had very much in mind that those proceedings were considering the specific issue of whether the defendants had committed a criminal offence. That was an entirely distinct issue to the matters before this panel. In addition, whilst it was apparent that no evidence was ultimately called against Dr Evans in the criminal proceedings, the panel was not presented with direct evidence regarding the precise rationale for the position taken by the prosecution. Insofar as submissions were made during the course of those proceedings and recorded in the documentation before the panel, it did not consider it appropriate to attribute any weight to such matters in these proceedings.

In a similar vein, Dr Evans expressly relied upon the opinion of counsel, Individual L, dated 14 October 2011, which was provided in the context of the criminal proceedings. That opinion addressed, for example, the legality of bonus payments and expressed various views in relation to the culture within education in the early 2000s.

The panel had no doubt that Individual L was an eminent practitioner and, by definition, a legal expert.

Nonetheless, this opinion was given for a particular purpose, in criminal proceedings and in specific circumstances. It became apparent that Individual L was, in fact, instructed by Individual F in the context of his prosecution. The panel was not provided with Individual L's underlying instructions. It was not, therefore, clear what information he was provided with for the purposes of his advice. Very obviously, Individual L did not appear before the panel.

Further and in addition, with reference to the salient matters before the panel, Individual L's opinion had been superceded by the Judgment. However, even in relation to the Judgment, having received legal advice, the panel proceeded on the basis that whilst the judgment of any civil court may be proved by producing a certified copy of the judgment, the findings of fact upon which that judgment was based is admissible as proof but not conclusive proof of those facts.

As with all of the opinions from various individuals within the hearing papers, the panel was mindful of the need to exercise its own independent judgment and not rely wholesale upon the opinion of any person, whatever their professional credentials, who was not engaged as an independent expert with a corresponding duty to the panel. It was for the panel, not anyone else, to draw inferences and conclusions from proven facts in this case.

Finally, insofar as there were references, within the evidence, to other failings on the part of Dr Evans, which did not relate to the specific allegations before this panel, these were disregarded other than to the extent they were relevant contextually.

Findings of fact

The findings of fact are as follows:

- 1. You received payments that amounted to an improper use of school funds and/or were not paid in compliance with the School teachers pay and conditions document in that:**
 - (a) In or around March 2006 you received a lump sum payment of £15,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the fifth Ali Memo dated 13 March 2006;**

- i. **Which was purportedly justified on the basis of savings to the school in not replacing a curriculum deputy head despite the fact that you had, not more than two months previously, received further one-off payments totalling £15,000 for "efficiency savings" by not replacing this same curriculum deputy head.**

It was recorded that, for the year ended 31 March 2005, Dr Evans' salary at the School was £79,633, which reflected point L31 on the STPCD for part of the year and point L37 for the remainder of it.

This salary increase was a consequence of a change in the School's senior leadership team, whereby one of the deputy headteachers, Individual E, left his full-time position.

This was addressed in a memorandum dated 25 March 2005, addressed from [redacted], Individual F, to the chair of the governing body, Individual G. In relation to all of the memoranda referred to in allegations 1(a) to 1(j), whether they were drafted as if from Individual F to Individual G or vice versa, they were all written by Individual F.

By way of background, Individual F [redacted]. He remained in post until he was suspended, along with Dr Evans, in May 2009.

Individual G was a governor at the School from 1988. He became chair of governors from October 2005.

All but a very small number of the alleged overpayments, as relevant to these proceedings and those outlined in the panel's introduction, were authorised by Individual G and [redacted], Individual Y.

This particular memo recorded the following:

"Individual E, [redacted].

We continue to maintain his post of [redacted] with Dr Evans and myself covering the other three days between us and supporting Individual E in all areas of Curriculum Development and his previous other responsibilities.

The other members of the executive team – Individual H and Individual I – have also enhanced their roles. Therefore, I recommend the redistribution of what would be Individual E's full time salary.

Individual F £15,000

Individual H £10,000

Dr Evans MBE £10,000

Individual I £7,500

Total £42,500

The saving from Individual E's salary is 3/5th of £75,000 = £45,000

Total savings = £2,500

On costs would increase this figure."

Dr Evans' case was that he did not see this, or related memoranda, at the time they were produced.

It was noted and not challenged that Dr Evans was moved 6 points up the leadership scale to L37 in January 2005 (backdated to September 2004) to cover Individual E's role.

Whilst not directly relevant to this allegation, it was suggested that the STPCD restricted such moves to a maximum of two points. This meant that Dr Evans' move to L37 was itself alleged to have been a breach of the STPCD.

In any event, over and above this, Dr Evans received the £10,000 lump sum payment in March 2005 for covering Individual E's role pursuant to the memorandum referred to above.

For the year ended 31 March 2006, Dr Evans' basic pay was £86,548.50, which reflected point L37 on the STPCD.

Over and above the £10,000 payment made in March 2005, pursuant to a further memorandum dated 10 June 2005, Dr Evans received an additional payment, along with other individuals, of £14,000 for what was described as a "*redistribution of what would be Individual E's full time salary*".

Dr Evans stated, around this time, he raised the matter of the redistribution of Individual E's salary with Individual F. This was on the basis that he was concerned as to how this redistribution resulted in a saving to the School.

In response to this, Dr Evans received a note from Individual F, a copy of which was in evidence, which addressed this concern. As a consequence, Dr Evans felt that he had fulfilled his responsibility by bringing the matter to the attention of the headteacher and, through him, the governing body. He did not raise the issue of further payments he received with reference to Individual E's role subsequent to this.

A further £15,000 was paid to Dr Evans over two months in January and February 2006.

The memorandum addressed from Individual G to Individual F giving effect to this payment, dated 18 January 2006, refers to sponsorship and, once again, covering

Individual E's role. The £15,000 payment was expressly stated to be made "*in recognition of the funding that you are attracting and the efficiency savings by not replacing the Deputy Head*".

Very shortly after this, pursuant to a memorandum dated 13 March 2006 addressed from Individual G to Individual F, described as the 'fifth Ali Memo' in allegation 1(a), a further payment was made to Dr Evans in the sum of £15,000. It records:

"You have saved the school a great deal of money by not replacing Individual E in the staffing structure ...

In recognition of the above and the efficiency savings by not replacing the Deputy Head, I recommend the following:

<i>1. Individual F</i>	<i>£20,000</i>
<i>2. Individual H</i>	<i>£15,000</i>
<i>3. Dr Richard Evans</i>	<i>£15,000</i>
<i>4. Individual I</i>	<i><u>£8,000</u></i>
<i>Total</i>	<i>£58,000</i>

I understand from Dr Evans that this amount is available from within the school budget."

Dr Evans accepted that he received this sum, along with all of the other payments set out above. It appeared from the records included in evidence that this payment of £15,000 was received by Dr Evans in the payroll for April 2006.

At the same time, the panel noted that Individual E remained engaged at the School on a part-time basis.

For the year ended 31 March 2006, Individual E's basic pay was recorded as being £30,226.50, on the basis of two days per week at point 31 of the STPCD.

Over and above this, Individual E received four 'consultancy' payments totalling £13,790. It was alleged that the respective claims for these additional payments were counter-signed by Dr Evans.

Having regard to the wording of allegation 1(a), the panel therefore found that:

- In or around March 2006, Dr Evans did receive a lump sum payment of £15,000, via PAYE, from the Council.

- It was paid pursuant to what was described as the 'fifth Ali Memo'.
- The payment was purportedly justified on the basis of savings to the School in not replacing Individual E as deputy head.
- It was made despite the fact that Dr Evans had, not more than two months previously, received payments totalling £15,000 for "*efficiency savings*" by not replacing the same deputy head.

With reference to the stem of allegation 1, the panel went on to consider whether this payment amounted to an improper use of school funds and/or was not paid in compliance with the STPCD.

Dr Evans' position was that he was not directly involved in the decision to make any of the payments particularised in allegation 1.

Accordingly and for the various reasons he expanded upon in his evidence, Dr Evans maintained that none of these payments were improper or unlawful.

However, the panel proceeded from the basis that the question of whether any payment was an improper use of school funds was an objective one. The extent of Dr Evans' involvement in the making of these payments, and any culpability on his part, should be properly considered in the context of allegations 2 and 3.

Furthermore, Dr Evans' position was that none of the payments were contrary to the provisions of the STPCD. As noted above, he relied upon the opinion of Individual L in that regard.

However, the panel repeats the preliminary observations set out in its introduction in relation to the limited exceptions provided for by the STPCD for the increase in teachers' pay above the maximum point on the relevant pay scale. The panel was satisfied that these exceptions did not apply to any of the payments set out in allegations 1(a) to 1(j). The panel took account of paragraph 125 of the Judgment, which records that:

"... there were, broadly, two purported justifications made at the time for all of the overpayments. The first was that they were remuneration for additional duties undertaken. The second was that they were reward for achievement.

In my judgment, neither category of payment was permitted by the STPCD."

Against this backdrop, the panel was satisfied that this payment of £15,000, received by Dr Evans in or around March 2006, was not compliant with the STPCD. Insofar as it was set out to be remuneration for additional duties undertaken, it fell outside of the scope of the provisions of the STPCD.

In addition, Dr Evans was already being paid a full-time salary for carrying out the full-time job of deputy headteacher. He had initially moved up the leadership scale in response to Individual E leaving his full-time role and was subsequently in receipt of significant bonus payments between March 2005 and early 2006, totalling £39,000, prior to this further payment of £15,000 in March 2006.

For this payment to be considered a proper use of the School's funds, the panel concluded there would need to be a justification for it to be made. For instance, consideration of the precise tasks undertaken and responsibilities taken on by Dr Evans to warrant this payment, over and above the other monies he received. The panel concluded that there was no such justification in this instance.

Further, the payments made to all of those involved vastly exceeded Individual E's salary, and indeed Individual E was still working at the School. It was impossible to see how these payments effected a saving as was suggested

Accordingly, whilst Dr Evans was at pains to talk about all that he claimed he did and alluded to an expanding of what would have been Individual E's role, the panel was not persuaded that this payment amounted to a proper use of school funds.

The panel therefore found allegation 1(a) proved.

- (b) In or around June 2006 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the third NSD Memo dated 6 June 2006 despite;**
- i. the fact that the memo referred to extra tasks taken on with regard to the new school development, to which you had also been separately paid several hundred pounds for attendance at meetings; and**
 - ii. the fact that you were already in receipt of a £24,000 per year salary increase, for working on the same new school development.**

Part of the context to these proceedings concerned efforts to build an entirely new school building on the School's site, termed the new school development project ("NSD").

Individual F, in particular, but also Dr Evans and other members of the School's senior leadership team were involved in the NSD which, in turn, was said to have taken up a considerable amount of their time.

That work was relied upon as the purported justification for various payments paid to Dr Evans.

The chronology of the NSD was set out in paragraphs 21 to 29 of the Judgment, which the panel adopted.

There was no dispute that, in June 2006, Dr Evans received a lump sum payment of £20,000 from the Council.

This payment was made pursuant to what was described as the 'third NSD memo' dated 6 June 2006. This memorandum, addressed from Individual G to Individual F, records:

"I would like congratulate both you and your superb team in securing the very important steps which have led up (sic) the formalisation of granting planning permission for the New School Development.

... I am fully aware of the extra tasks that you, Dr Evans as well as Mr Udokoro and Mrs Bishop have taken on. In my key role, within the Copland Development, I see at first hand all the work that is going on. To outsiders, things just seem to flow from one step of the development to the next step. You and I, both know just how far from the truth this is. All of you have been great facilitators in the process. Had we even considered paying external contractors to carry out your tasks, I have no doubt that it would have cost the school a small fortune, a great deal more time and I am far from convinced that it would have been equally successful.

In recognition of the above, I recommend the following:

1.	<i>Individual F</i>	<i>£25,000</i>
2.	<i>Dr Richard Evans</i>	<i>£20,000</i>
3.	<i>Individual J</i>	<i>£10,000</i>
4.	<i>Individual K</i>	<i><u>£ 8,000</u></i>
	<i>Total</i>	<i>£63,000"</i>

Whilst Dr Evans once again asserted that he did not see this memorandum at the time, the panel noted that it recorded that Individual G had communicated with Dr Evans and "*asked him to ensure that this amount is put aside to give the relevant staff their due rewards*".

Prior to this and with reference to particular 1(b)(ii), Dr Evans had been in receipt of a salary increase of £2,000 per month implemented pursuant to a letter dated 2 November 2005 from Individual F to Dr Evans, headed:

"Re: Responsibilities and Additional Duties arising from the New Copland Community Village Development"

The letter referenced the NSD and went on to state that:

"[Individual G] has stated that in recognition of the above, I should receive and additional payment of £3,000 per month. In effect, he has recognised that I will be holding the equivalent of two headships.

In order to cover my normal headteacher duties in school, whenever I am meeting with a range of personnel, he has also stated that you should receive an increase of £2,000 per month until further notice so that all aspects are covered.

Individual G has asked that you co-ordinate the soft works and manage the move of resources from the 'old school building' into the 'new school' when we are ready to transfer."

The panel therefore proceeded on the basis that this additional increase, equivalent to £24,000 per year, was both directly and indirectly linked to the NSD with reference to anticipated "soft works" and covering Individual F' role.

In addition, with reference to particular (b)(i), Dr Evans separately received payments under the description 'conference'. For example, pursuant to a memorandum dated 4 January 2006, Dr Evans was paid £900 for a meeting he attended with the Honourable Jacqui Smith, then Minister for Education, in "*recognition of planning, preparation and delivery of materials concerning the new school development*". A further handwritten note alluded to a payment for attending a conference at 'Haringey Professional Development Centre' on 7 June 2005, for which Dr Evans was paid £500.

Having regard to the wording of allegation 1(b), the panel therefore found that:

- In or around June 2006, Dr Evans received a lump sum payment of £20,000 from the Council;
- This payment was made pursuant to the 'third NSD Memo';
- It was received by Dr Evans despite the fact that he had already:
 - Separately been paid several hundred pounds for attendance at meetings; and
 - Had received a salary increase a £24,000 per year for work related to or concerning the NSD.

With reference to the stem of allegation 1, the panel went on to consider whether this payment amounted to an improper use of school funds and whether it was paid in compliance with the STPCD.

In relation to the latter issue, the panel was satisfied that this payment was not compliant with the STPCD. Insofar as it was set out to be remuneration for additional duties or as a reward for achievement concerning the NSD, it fell outside the scope of the provisions of the STPCD.

Further, in circumstances where Dr Evans was already in receipt of a salary increase for whatever work was undertaken in relation to his work on NSD, there was no objective justification for this further payment. It was unclear what, precisely, Dr Evans did to warrant any remuneration over and above his deputy headteacher's salary and the additional £24,000 he was receiving.

Whilst Dr Evans may have had a knowledge of planning requirements from other roles he held previously, the panel concluded he had no direct, relevant experience or formal qualifications to undertake a project management role in relation to the NSD.

In any event, this payment was for an arbitrary sum not justified with reference to specific tasks or responsibilities.

The panel therefore concluded it was an improper use of school funds.

The panel accordingly found allegation 1(b) proved.

- (c) In or around September 2006 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the sixth Ali memo, entitled "Cover for Curriculum Deputy Head", dated September 2006;**
 - i. Which was purportedly justified on the basis of "outstanding achievement" and covering the duties of the former curriculum deputy head, despite the fact that you had received payments of at least £30,000 for covering such work in January and March 2006.**

The panel repeats its findings above in relation to allegation 1(a).

Separately and subsequently, Dr Evans received a further payment of £20,000 pursuant to a memorandum dated September 2006, described as the 'sixth Ali memo', addressed from Individual F to Individual G. This stated:

"I am writing to congratulate both you and Dr Evans for your outstanding achievement whilst continuing to cover the duties of the Curriculum Deputy during his retirement.

As a school, we have made the correct decision in not appointing a successor to Individual E as endorsed by the increase in achievement this year at KS3, GCSE and Advanced level.

However, it is essential that you are both rewarded accordingly for your professionalism and extra duties as it is not our aim to save money.

Please make the necessary arrangements as previously agreed to distribute the equivalent of Individual E's and bonus as follows (October 2006 and April 2007)

Individual F £25,000

Dr Richard Evans £20,000." (sic)

This payment of £20,000 is recorded as having been received by Dr Evans in two tranches, in October and November 2006.

With reference to the wording of allegation 1(c), these monies were received despite Dr Evans also receiving payments totalling £30,000, for purportedly covering Individual E's work, in or around January and March 2006 as set out in the panel's findings in allegation 1(a).

In accordance with the stem of allegation 1, the panel went on to consider whether this payment amounted to an improper use of school funds or was not paid in compliance with the STPCD.

In relation to the latter issue, the panel was satisfied that the payment was not compliant with the STPCD. These monies were purported to be remuneration for additional duties undertaken, which fell outside the scope of the provisions of the STPCD.

Dr Evans was already being paid a full-time salary for carrying out the full-time job of deputy headteacher. He had moved up the leadership scale in response to Individual E leaving his full-time role and received significant bonus payments between March 2005 and March 2006, totalling £49,000.

On the basis of the evidence before the panel, there was no objective justification for this further, additional payment. Considered in totality, the payments made to all of those involved vastly exceeded what would have been Individual E's salary. This was another example of a round sum payment being made without reference to specific tasks and responsibilities purportedly undertaken by Dr Evans.

It therefore also amounted to an improper use of school funds.

The panel accordingly found allegation 1(c) proved.

- (d) In or around January 2007 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the seventh Ali memo, entitled "Cover for Curriculum Deputy Head", dated January 2007;
- i. Which was purportedly justified on the basis of covering 'payment for the Jan- June period' but would have over exceeded the purported salary saving in relation to the former curriculum deputy head.

Subsequent to the payments received by Dr Evans which are addressed in allegations 1(a) and 1(c), further to what was described as the 'seventh Ali memo', Dr Evans received a further payment of £20,000.

The memorandum, once again addressed from Individual G to Individual F and drafted in very similar terms to the memorandum dated September 2006, records:

"I am writing to congratulate both you and Dr Evans for your outstanding achievement whilst continuing to cover the duties of the Curriculum Deputy during his retirement.

As mentioned before, we have made the correct decision in not appointing a successor to Individual E as endorsed by the increase in achievement this year at KS3, GCSE and Advance level.

As mentioned in my previous letter, it is now appropriate to cover payment for the Jan-June period. It is essential that you are both rewarded accordingly for your professionalism and extra duties as it is not our aim to save money."

This amount was paid in two tranches in January and February 2007, which was accepted by Dr Evans.

With reference to sub-particular (d)(i), the panel took account of the following findings in the Judgment.

"406. Each of the [later Ali Memos] purports to justify ever increasing one-off payments on the basis of redistributing Individual E's salary. Many of them repeat the express claim that the payments represent a saving to the school. In each case, the claim was false. ...

...

415. By the fourth to seventh Ali Memos, a further amount of £223,000 was paid to a handful of staff members over a period of just twelve months. Of this Individual F received £90,000 and Dr Evans received £70,000. The precise

formulation of the justification varies as between the four memos, but each of them refers to the work done in covering for Individual E during his retirement. The fifth Ali Memo repeated the misrepresentation that: "You have saved the school a great deal of money by not replacing Individual E". It is true that in the sixth and seventh Ali Memos the wording changed slightly and included the phrase: "it is essential that you are both rewarded accordingly for your professionalism and extra duties as it is not our aim to save money", but the payments were nevertheless still described as a distribution of Individual E's remuneration.

416. *In each case, the claim that the school had been saved money by not replacing Individual E, and that this justified the payments, was false. ... when the cumulative effect of the second to seventh memos was that the school was paying between March 2005 and January 2007, an additional £324,500*

417. *Accordingly, I find that in causing the payments in the second to seventh Ali Memos to be made, where they were justified as reward for undertaking additional duties following Individual E's retirement, Individual F knew that they could not be justified on the basis that he was putting forward. Far from resulting in a saving to the school, he knew that they resulted in a substantial overpayment."*

The panel accepted these findings, which were not challenged in these proceedings by Dr Evans and were consistent with the evidence before the panel.

It was accordingly satisfied that whilst this payment was purportedly justified on the basis of being for "payment for the Jan-June period", it did exceed the purported salary saving in relation to Individual E.

The purported justification for this payment was, therefore, false. Rather than saving money for the School, the cumulative effect of the payments with reference to Individual E was an additional sum of £324,500. Against this backdrop, the panel was also satisfied that this particular payment amounted to an improper use of the School's funds.

In this instance, the payment was described as a reward rather than with reference to additional duties undertaken. Either way, the panel was satisfied it was not compliant with the STPCD.

The panel therefore found allegation 1(d) proved.

(e) In or around March 2007 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant

to the Chalkhill memo, entitled "Support for Chalkhill Primary School" dated 1 March 2007 which;

- i. was purportedly justified on the basis of the support you provided in Mathematics to the school in special measures, but which support must have been completed during the working day for which you were already paid a fulltime salary, or during time for which you were already in receipt of salary enhancements of approximately 70% of your basic salary; and**
- ii. for the reasons mentioned at 1ei above, amounted to a double-counting of additional responsibilities and payments.**

Allegation 1(e) concerned Chalkhill Primary School ("Chalkhill"), a feeder school to the School.

In 2007, Chalkhill was the subject of a notice to improve from the Council, such that it was described as being in 'special measures'. This led to the formulation of strategies for improvement to address the concerns that were identified.

Individual F was a governor at Chalkhill and was asked to assist in 'turning it around'.

Pursuant to this, Dr Evans and other teachers from the School attended and assisted with tasks at Chalkhill, undertaking what were described as additional teaching duties.

On 1 March 2007, Individual F authored a memo from Individual G to himself headed "Support for Chalkhill Primary School", described as the 'Chalkhill memo'.

The memorandum noted that, following the movement of Chalkhill into 'special measures', it had been suggested that the School's management team provide special support to Chalkhill.

It went on to note that the School's "executive has as its primary subjects each of the three core subjects – English (Individual H), Mathematics (Dr Evans) and Science (Individual I) ... It is important that the time and effort and [sic] you and your team put into this task be rewarded. To that end, following consultation, I suggest that the following levels of remuneration: (1) Individual E £25,000; (2) Dr Richard Evans £20,000; (3) Individual H £20,000; (4) Individual I £20,000."

Dr Evans proceeded to receive the sum of £20,000, which he admitted, understood to have been paid in two tranches in March and April 2007.

This was before whatever work was ultimately undertaken in support of Chalkhill had been completed.

With reference to particulars (e)(i) and (ii), the panel noted and adopted the following findings in the Judgment, which were consistent with the evidence before the panel:

“431. ... There are a number of difficulties with this memo, which I address separately below but, aside from those, any additional work undertaken by Individual F and Dr Evans relating to Chalkhill must have been either during the working day for which they were otherwise being paid a full-time salary or during time for which they were in receipt of salary enhancements of approximately 70% of their basic salary (let alone the £50,000 paid to Individual F and £40,000 paid to Dr Evans in the first five months of 2007 supposedly for additional duties relating to Individual E’s work and the NSD).

...

453. Dr Evans’ evidence was that he (and the other teachers mentioned) did indeed assist with teaching pupils at Chalkhill school. He said that he thought they had put in about ten months of work at Chalkhill, working approximately one to two days a week. Although he could not be precise, much of this was done after the date of the memo. I accept that each of Dr Evans, Individual H and Individual I did in fact undertake additional teaching duties at Chalkhill.

454. It is, however, very difficult to see any objective justification for the payments authorised by this memo. The sums awarded cannot be justified by reference to time actually spent by the relevant staff members at Chalkhill, since the memo was drafted before much of the work was done and it cannot have been known over what period the teachers would be committing to Chalkhill. More importantly, the three members of staff were already being paid for teaching full-time at Copland. Neither Dr Evans nor Individual F could offer any satisfactory explanation for why the teachers themselves were paid for assisting at Chalkhill, as opposed to Copland being compensated for having provided its teaching staff to Chalkhill (which is what happened some years earlier when Copland had loaned its staff to another failing school). In cross-examination Individual F suggested that it may have been the case that Chalkhill had agreed to pay, but that he did not chase it up because the school was so busy. I do not accept that Chalkhill, a failing primary school, would have committed to paying £85,000 to Copland school for part-time assistance of three teachers, particularly without knowing the period of time over which those teachers would be required. Even if Chalkhill had agreed to reimburse Copland, that does not explain why it would have been appropriate for teachers to be paid for working at Chalkhill during time they were already being paid to work at

Copland. While it may well be the case that the teachers would be burdened with some overall additional workload, it is not credible that this would have been of an order that justified such enormous additional payments to them.”

On this basis, the panel concluded that this payment was made in circumstances where the support provided must have been completed during the working day for which Dr Evans were already paid a full-time salary, or during time for which he was already in receipt of salary enhancements of approximately 70% of his basic salary. It was also satisfied that this amounted to a double-counting of additional responsibilities and payments.

With reference to the stem of allegation 1, the panel went on to consider whether this payment amounted to an improper use of school funds or was not paid in compliance with the STPCD.

In relation to the former, for the reasons set out above the panel was satisfied that this was an improper use of school funds. At the time the payment was made, whatever work was ultimately undertaken by Dr Evans, it had, very clearly, not concluded. It followed that this payment could not have been objectively justified on a time spent basis. Rather, it was pre-emptive.

Furthermore, the panel considered there was no justification for Dr Evans to be paid for working at Chalkhill when he was already being paid to work at the School.

The School made this payment to Dr Evans, together with the payments made to the other staff in question, but was not reimbursed by Chalkhill.

The panel recognised that it was not uncommon, at that time, for successful schools to assist other schools experiencing difficulties. However, not in circumstances where the funds of the former were utilised to do so. The panel did not accept Dr Evans' suggestion that there were ancillary benefits to the School, such as in relation to continuity and engagement with future pupils, which justified this payment. However, even if that were the case, the payment nevertheless amounted to double-counting.

The panel was also satisfied that this payment was not compliant with the STPCD. Whether this payment was intended to be remuneration for additional duties undertaken in relation to Chalkhill or an advance payment by way of a reward, it fell outside the scope of the STPCD.

The panel therefore found allegation 1(e) proved.

- (f) In or around May 2007 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant**

to the fourth NSD memo, entitled "extra responsibilities" dated May 2007 despite;

- i. the purported justification "to show appreciation for the enormous extra work that your team are doing...continuing to cover [former curriculum deputy head] ...thus giving us the significant saving for a deputy heads salary" being repetitive of the justification given for payments already made in September 2006 and January 2007 which exceeded the purported salary saving in relation to the former curriculum deputy head.
- ii. you having completed work insufficient in relation to the new school development to justify additional one-off payments in advance of your salary increase of £2,000 which you were paid from September 2005 and the additional one-off payments already paid to you.

For the year ending 31 March 2008, Dr Evans' basic pay was recorded as being £89,376.50. This reflected point 37 on the STPCD.

Over and above this, Dr Evans received additions to his pay totalling £121,503. This included £2,000 per month relating to the NSD, which was paid to Dr Evans from September 2005, and a separate, lump sum payment of £20,000 paid in two tranches in May and June 2007, also purportedly justified with reference to the NSD.

The latter payment was provided for by what was termed the 'fourth NSD memo' dated May 2007. It was addressed to Individual F from Individual G and stated:

"I am writing to thank you and your team for the excellent work that you are doing over and above what is expected of you. It almost seems that you are each doing the work of two people.

I would like to show appreciation for the enormous extra work that your team are doing in attending meetings at Chancerygate, at Leytons our solicitors and also seeking out and developing links with several possible future developers (and even sponsors) who could ensure that this important development proceeds as necessary. I fully realise the business links that you are bringing into this project — even the Chamber of Commerce noted that we were the first school to expand our horizons in this direction.

It is quite remarkable that on top of all this, during a very delicate stage of the project you are also striving to ensure high standards are maintained in exam results ...

Therefore, I would like to reward the team..."

Particular 1(f)(i) attributed the justification for this payment to savings in Individual E's salary. Whilst this was not addressed in evidence or the parties' submissions, the panel considered this to be inaccurate.

This memorandum did make reference to Individual E in general terms. However, the selected quotes set out in this particular were not consequential and, as pleaded, were misleading. On the basis of the wording of the 'fourth NSD memo', the covering of Individual E's role was not the purported justification for this particular payment.

The panel accordingly disregarded particular 1(f)(i).

With reference to particular 1(f)(ii), the panel noted the following findings set out in the Judgment:

- "432. *Payments to Dr Evans relating to the NSD are particularly difficult to justify. For every payment or salary increase for Individual F, Dr Evans received an amount that was similar, as a proportion of his salary. Dr Evans undertook nothing like the workload undertaken by Individual F on the NSD. In a chronology of events relating to the NSD prepared by TLT LLP for the Claimant in August 2009, there is no mention at all of Dr Evans. He does not appear to have attended any of the numerous meetings attended by Individual G and Individual F. He was not involved with the developers, either in the process of appointing them, or thereafter. In his interview with the Claimant in July 2000 he said that he had not been involved at all with Chancerygate: "I have never met any of their people. Certainly seen no documentation at all". Although he partially retracted this at trial, saying that he did have meetings with Individual Z, an architect who he did not realise at the time worked for Chancerygate, the more contemporaneous answers given in his interview suggest that his involvement was relatively minor.*
433. *In his own words, he described his work on the NSD as relating to "soft-works", i.e. dealing with aspects relating to the interior of the new building, considering what was required, and including doing questionnaires for the staff, to decide what materials needed to be taken over to the new school building. While accepting that some preparatory work of this nature might have been necessary, and assuming in his favour that such work as he did might justify payment of £2,000 per month which he was paid from September 2005 onwards, it is impossible to see how he could have undertaken work justifying the further salary enhancement in June 2007 of £48,000 per year, and the one-off payments aggregating £96,000 between December 2005 and October 2008, particularly when building work on the new school never started.*

434. *For the above reasons, I conclude that insofar as any of the ad hoc memos after November 2005 purported to award payments to Individual F or Dr Evans for additional work done, then there was no reasonable basis for the justification put forward."*

Whilst the particulars of allegation 1(f)(ii) was drafted in terms that were unnecessarily complex, on the basis of the evidence available and with reference to the Judgment, the panel found it proven on the basis that whatever work was undertaken by Dr Evans in relation to the NSD, it was insufficient to justify this additional payment over and above the salary increase of £2,000 which he had already been paid, together with other one-off payments he received.

Given there was no objective justification for this payment, the panel concluded it was an improper use of school funds.

On the basis that the purported justification was said to be a reward for whatever work was perceived as having occurred, the payment was also contrary to the terms of the STPCD.

The panel therefore found allegation 1(f) proved on this basis.

- (g) From around June 2007 you received monthly payments of £4,000 paid to you via PAYE as a salary increase, by the Brent London Borough Council, pursuant to the fifth NSD Memo dated June 2007 which;**
- i. was proposed on the basis of your work relating to the New School Development Project despite this involving limited preparatory matters and soft works;**
 - ii. failed to take account of the permanent salary increase of £24,000 which you had been receiving from September 2005 onwards, together with payments of £46,000 for work on the New School Project (second to fourth NSD Memo's);**
 - iii. for the reasons mentioned at 1gi and/or 1gii above amounted to double counting of additional responsibilities and payments for which you were already being remunerated.**

The panel repeats its findings above in relation to allegation 1(f).

Having received the sum of £2,000 per month from September 2005 and the payment of £20,000 in May and June 2007, both with reference to the NSD, from June 2007 Dr Evans was granted an additional payment of £4,000 per month.

The purported justification, set out in what was described as the 'fifth NSD Memo' dated June 2007, from Individual G to Individual F, was that this money was allocated because:

"It is essential that [Individual F and Dr Evans] are both rewarded for your hard work and stress in relation to the New School Development."

With reference to particulars (g)(i) to (g)(iii), for the reasons set out above, firstly, Dr Evans' recorded involvement in the NSD was limited.

The purported justification set out in this memorandum made no reference to the previous salary increase awarded to Dr Evans or the other payments made to him with reference to the NSD.

In light of this, and as per the Judgment, it was impossible to see how Dr Evans could have undertaken work justifying this further salary enhancement. The timing was particularly concerning in circumstances where this additional sum was granted within a very short time of the payment addressed in allegation 1(f). There was no evidence of anything that had occurred, in that short period, warranting this additional, ongoing increase.

As a matter of fact, the panel therefore determined that, on the basis of the evidence before it, Dr Evans did not do any additional work. As such, this further, additional monthly payment constituted double-counting.

For the same reasons as set out in allegation 1(f), the panel was satisfied that the payments made pursuant to this memorandum, which Dr Evans accepted he received, amounted to an inappropriate use of school funds. In actual fact, the payments shown as received on Dr Evans' payslips totalled £4,167 per month, which Witness A suggested was likely to be a payroll error.

There was no objective justification for these additional payments. Even if Dr Evans' receipt of £2,000 per month from September 2005 was warranted and justified, on the assumption that he did the work he claimed to have done in relation to the NSD, there was no evidence that these further payments were warranted or justified.

This further award was also contrary to the terms of the STPCD. These payments were very clearly set out to be a reward for "*hard work and stress*". This was not compliant with the STPCD.

The panel therefore found allegation 1(g) proved.

(h) In or around October 2007 you received a lump sum payment of £30,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the sixth NSD memo, dated 15 October 2007 which;

- i. **was purportedly justified on the basis of "outstanding work that you are all doing in relation to the New School Development" and for "assisting leading the development plus normal duties";**
- ii. **amounted to double-counting of additional responsibilities and payments, for which you were already receiving £6,000 per month for this, following salary increases of £24,000 and £48,000 from September 2005 and June 2007.**

Following on from allegation 1(g), having been awarded an additional monthly sum of £4,000 from June 2007, which was received from July 2007 onwards, in October 2007 Dr Evans received a further lump sum payment of £30,000.

This was paid pursuant to what was described as the 'sixth NSD memo' dated 15 October 2007. Dr Evans accepted that he received this sum, which was paid in two tranches in October and November 2007.

With reference to particular (h)(i), the memorandum records that this payment was purportedly justified on the basis of what was described as the "*outstanding work that you are all doing in relation to the New School Development*" and, with specific reference to Dr Evans, for "*assisting leading the development plus normal duties*".

Having regard to the previous salary increases and the other payments made to Dr Evans, with reference to the NSD, and in circumstances where there was no evidence of work undertaken by Dr Evans justifying this further payment, the panel was satisfied that this constituted double-counting as alleged pursuant to particular (h)(ii).

For the same reasons as set out in allegations 1(f) and 1(g), the panel was also satisfied that the payment received pursuant to this memorandum amounted to an improper use of school funds. There was no evidence that it was warranted or justified. Dr Evans' recorded involvement was limited and he had already been extensively rewarded for whatever work was undertaken, which was itself unclear.

This payment was also contrary to the terms of the STPCD. It was described as a reward for whatever work Dr Evans was perceived as doing in relation to the NSD. This was not permitted by the STPCD.

The panel therefore found allegation 1(h) proved.

- (i) **In or around July 2008 you received a lump sum payment of £10,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the memo dated 7 July 2008 which;**
 - i. **was recommended as a reward for "amazing effort" in turning around the science and ICT faculties despite the fact that other**

staff, directly involved with the science and ICT faculties, were not similarly rewarded;

- ii. was paid despite previous payments and continued salary enhancements which were already being paid to you.**

For the year ending 31 March 2009, Dr Evans' basic pay was £92,512.75, reflecting point 37 on the STPCD.

Additional sums received by Dr Evans over the course of this financial year included payments for additional responsibilities and for the NSD totalling £99,837, which included a lump sum payment of £10,000 paid pursuant to a memorandum dated 7 July 2008.

This memorandum was addressed from Individual G to Individual F and records, with reference to particular 1(i)(i), that the purported justification for this payment was "*amazing effort*" in connection with what was perceived to be the 'turning around' of the School's science and ICT faculties, together with its 'Saturday school'. There was no evidence that any other staff involved with these faculties were similarly rewarded. Witness D, who gave evidence to the panel and was a member of the science department, confirmed he did not receive a payment at this time.

Very clearly, with reference to particular 1(i)(ii), this payment of £10,000 was made despite all of the other payments made and salary enhancements received in this financial year.

On the basis that there was no clear evidence before the panel regarding precisely what Dr Evans did, and given he was already being compensated for striving to make improvements across the School pursuant to his salary as part of his job role, together with the other enhancements received, the panel was satisfied that this payment amounted to an improper use of school funds.

One element of the purported justification was recorded as being Dr Evans' implied involvement in the appointment of a new leader of science, which was part of his role as deputy headteacher. Even if there had been positive improvements with reference to these faculties, it was likely to have been a collective effort. However, not only did no other staff members receive a payment to reflect this, there was no evidence demarcating precisely what Dr Evans did in comparison with others within the respective faculties. Indeed, whilst Dr Evans was said to have been the line-manager for the science department, there was absolutely no evidence regarding what this involved on a day-to-day basis.

This payment was also contrary to the terms of the STPCD.

The panel therefore found allegation 1(i) proved.

- (j) In or around October 2008 you received a lump sum payment of £20,000 paid to you via PAYE, by the Brent London Borough Council, pursuant to the seventh NSD Memo dated 9 October 2008 which;**
- i. was purportedly justified payment for reward on the basis of "carrying out tremendous continued additional workload over and above their normal day to day school activities" despite the fact that you were already in receipt of an additional salary of £72,000 per year purporting to be for additional work undertaken on the New School Project.**

Following on from allegations 1(f), 1(g) and 1(h), having been awarded an additional monthly sum of £4,000 from June 2007 and the other lump sum payments set out, all with reference to work allegedly undertaken in relation to the NSD, in October 2008 Dr Evans received a further lump sum payment of £20,000.

For the year ending 31 March 2009, Dr Evans' basic pay was £92,512.75, reflecting point 37 on the STPCD. Additions received by Dr Evans during this financial year included payments for additional responsibilities and for the NSD, totalling £99,837, including this payment of £20,000 received over October and November 2008.

It was paid pursuant to what was described as the 'seventh NSD memo' dated 9 October 2008. Dr Evans accepted that he received this sum.

With reference to particular 1(j)(i), the memorandum records that this payment was purportedly justified on the basis of what was described as "*carrying out tremendous continued additional workload over and above ... normal day to day school activities*" in circumstances where Dr Evans was already in receipt of an additional salary enhancement of £72,000 per year, purporting to be for additional work undertaken in connection with the NSD.

Having regard to the previous salary increases and the other payments made to Dr Evans, with reference to the NSD, and in circumstances where there was no evidence of work undertaken by Dr Evans justifying this further payment, the panel was satisfied that this constituted an improper use of school funds. There was no evidence that it was warranted or justified. Dr Evans' recorded involvement was limited and he had already been extensively rewarded for whatever work was undertaken, which was itself unclear.

The payment was also contrary to the terms of the STPCD.

The panel therefore found allegation 1(j) proved.

- 2. Your conduct as may be found proven at 1 above was unconscionable in that you appreciated the risk that such payments were an improper use of school funds but failed to make proper enquiries with the Headteacher and/**

or Governing Body to ensure that these payments could be justified and were a proper use of school funds;

Introduction

Having found the facts of allegations 1(a) to 1(j) proved, the panel went on to consider whether Dr Evans' conduct was unconscionable on the specific basis pleaded.

The panel was referred to and followed the suggested meaning or test of unconscionable set out in paragraphs 558 to 568 of the Judgment.

Adapted for the purposes of these proceedings, these paragraphs propose that the test for unconscionability would be satisfied if:

1. Dr Evans was aware of matters which would have caused a reasonable person, in his position, to appreciate the risk that any of these payments were an improper use of school funds and would have made enquiries of the School's governing body before accepting them; or
2. Dr Evans actually appreciated that risk, such that it would have been unconscionable to receive the payment.

The panel considered that allegation 2 was worded in terms which were an amalgam of these alternatives.

It was notable that the allegations in general were subject to adverse comment by Dr Evans' representative and, unusually, the presenting officer on behalf of the TRA. It was unfortunate, in those circumstances, that they had not been appropriately finessed in advance of the hearing. There was certainly ample time to do so given the procedural history of this case.

In any event, in accordance with the legal advice received, which was not subject to objection or comment by either party, the panel interpreted allegation 2 in terms whereby it would be found proved if either limb 1 or limb 2 above was made out, which was consistent with the Judgment.

However, whilst allegation 2 included the alternative proposition that Dr Evans failed to make proper enquiries with the headteacher, the panel considered that was not made out.

Given the central involvement of the headteacher in these events, and in circumstances whereby he was in receipt of equivalent payments with the same purported explanations, the panel considered that raising these matters with the headteacher would have served little practical purpose.

Allegation 2 was thereby considered with reference to the question of whether Dr Evans did not make proper enquiries with the governing body when he should have done.

Dr Evans' case

As a starting point, Dr Evans denied that his actions were unconscionable in any respect.

Whilst the panel had careful regard to all of the evidence presented and the submissions made on his behalf, the main thrust of Dr Evans' response to this allegation is summarised below, which applied with equal relevance to allegation 3.

1. Dr Evans maintained that he had limited financial involvement initially and then no substantive involvement in financial matters from the point at which his role was said to have changed in or around 2003. From that point, Dr Evans claimed he no longer had access to the School's financial system and the finance team was headed by [redacted], Individual J. He asserted, in particular:

"My financial responsibilities were monitoring spend against capitation and budget, and I reported on this to the Governors based on the information provided to me by Individual J.

I was also responsible for presenting the School budgets ..."

2. Dr Evans asserted that Individual J had day-to-day responsibility for the School's finances.
3. The School was subject to regular audits by a leading accountancy practice and Dr Evans proposed increasing the frequency of those audits. No concerns were ever raised by the auditors and Dr Evans had no involvement in submitting financial information to them.
4. He had no power to approve remuneration payments to himself or others and nor did he do so or make recommendations.
5. Dr Evans had no responsibility for payroll.
6. All payments were made as salary by the Council and were subject to "PAYE, NIC and other deductions".
7. As per the Judgment, payments were either authorised by the School's Pay Review Committee ("PRC") or through what was described as the 'ad hoc' procedure.

8. All his senior colleagues received similar payments for similar work.
9. At no time was there a budget deficit at the School.
10. Dr Evans addressed in detail the circumstances of the School, the positive changes implemented during his time there and the various initiatives that were implemented which revitalised it, such that the hard work and dedication were said to have paid dividends.
11. It was a deliberate policy decision to attract and keep the best staff, who were well rewarded in circumstances where the ethos was that everyone should be rewarded if the School was successful, which it was.
12. The payments had to be judged in the context of the culture and attitudes of the time.
13. Dr Evans maintained that he undertook an "*immense*" workload, working in excess of 80 hours a week and, in oral evidence, suggesting that he would work 70 hours each week over and above his contracted working hours.
14. He was not a member of the governing body and only attended and spoke by invitation. The governing body delegated authority to the PRC in relation to staff payments and from April 2003 "*the concept of "Sharing in Success" through bonuses, additional payments and upgrading of posts was set out in documents for the PRC and formed the basis of the minutes for those meetings.*"
15. Whilst payments made to him were acknowledged, it was denied that they were unauthorised or knowingly unlawful and the payment of bonuses was known throughout the governing body and wider school community.
16. In relation to each category of payments, Dr Evans set out work, tasks and responsibilities he asserted he undertook, in broad terms if not in specific detail, with reference to them. Dr Evans believed he was genuinely being rewarded for his hard work and that the payments were authorised and transparent.
17. Dr Evans raised his concerns regarding payments in relation to Individual E's role and duties to Individual F and felt he had fulfilled his responsibility by doing so.
18. The Council was aware of the payments.
19. The governing body and the School as a whole had embraced a bonus culture.

20. Whilst Dr Evans accepted, in oral evidence, that the payments may be viewed as inappropriate in totality and with the benefit of hindsight, he maintained that was not his perception at the time. He stated, in summary:

"... it was my understanding at the time that all payments in addition to salary increases were delegated to and authorised by the PRC or Individual G and Individual Y and known in general terms to the Governing Body. That all necessary legal and accountancy advice was provided to the Governing Body and/or its Committees by its Clerks and/or Individual J taking external advice as required. I had no reason to question the authorisation of payments. The payments were processed through the payroll, were clearly identified on our individual payslips, payroll details were given to Brent and to the external auditors, PKF, for its yearly audit."

Preliminary observations

Having carefully considered the evidence before it and the parties' submissions, prior to specifically addressing the question of whether Dr Evans' conduct was unconscionable, the panel makes the following, preliminary factual determinations and observations.

1. Dr Evans did have an involvement in financial management at the School even if that may not have been to the extent that he was closely involved in day-to-day financial matters. Whilst Dr Evans was very keen to distance himself from having any financial involvement, the panel considered this position was not consistent with the totality of the evidence before it. It noted the following matters in particular, over and above Dr Evans' job title and position within the senior leadership team at the School:

- 1.1. A letter dated 14 January 2005 from Individual F to Dr Evans records:

"You will continue to manage finance within the school with figures produced by Individual J and report to Governors."

- 1.2. The 'fifth Ali memo' records proposed payments and states:

"I understand from Dr Evans that this amount is available from within the school budget."

- 1.3. Similarly, the 'third NSD memo' once again refers to proposed payments and states:

"Having communicated with Dr Evans, I have asked him to ensure that this amount is put aside to give the relevant staff their due rewards."

- 1.4. Minutes of the School's finance and management committee meeting on 1 March 2006 recorded:

"Individual F informed members of the excellent work that has recently been undertaken by the finance team: Dr Evans, Individual J and Individual K"

It was apparent that throughout his time at the School, Dr Evans was the line manager for the finance department and his duties included preparation of the School's annual budget.

- 1.5. A memorandum dated September 2006 refers to payments for Individual J and Mrs Bishop, stated it is *"essential that [they] are both recognised for undertaking extra duties in assisting Dr Evans with finance."*

- 1.6. A memorandum from Individual G dated 9 October 2008, refers to Dr Evans as both deputy headteacher and *"finance director"*.

- 1.7. Within the majority of the minutes of the finance and management committee included in evidence, Dr Evans is recorded as presenting reports on the School's financial position. Minutes of a meeting on 18 November 2003, after Dr Evans asserted his role changed, recorded, for example:

"Dr Evans advised that the school is in a very healthy position at present ...Dr Evans also suggested a bonus for all staff (approx. total spend of £150,000 to £200,000."

- 1.8. Similarly, a note of a meeting of the finance and management committee on 5 October 2006 recorded:

"The expenditure costs are being kept strict control of by, primarily, by Dr Evans." (sic)

- 1.9. With reference to payments approved at seven PRC meetings between April 2003 and April 2009, the Judgment records:

"Individual F and Dr Evans would be present at the commencement of the meetings of the PRC for the purposes of outlining the recommendations, but would then leave to allow discussion among the PRC members. Dr

Evans attended in order to answer any questions that might arise as to the school's finances, and the affordability of the payments. Throughout the relevant period, the PRC was assured that the payments were affordable and within budget. Moreover, governors were told by Individual F (for example at a meeting of the FMC in February 2007) that it was important to spend the delegated budget, and not leave a large surplus at the year end, because the Claimant had the power to claw-back unused surpluses. At the end of the meeting, Individual F and Dr Evans were called back in and the PRC's decision on each of the recommendations was relayed to them."

2. There was no formal sub-delegation by the governing body in relation to the award of these payments, all of which occurred by what was described in the Judgment as the 'ad hoc' procedure, other than with reference to one exercise of purported delegated power in the context of the 'sixth NSD Memo'. Further, the governing body was never told of the amount of bonuses and additional payments being awarded to Dr Evans, albeit governors as a whole were aware that bonuses and additional payments, *per se*, were being paid to staff. The same was true of the finance management committee. Accordingly, no secret was made of the policy to pay bonuses and it was generally considered to be a lawful practice, albeit the Judgment records (at paragraph 512(3), that "*there was a culture of secrecy surrounding bonuses at the school which bordered on paranoia*"). The governing body was aware that it was never reported to on the amount of bonuses, which was contrary to the STPCD. Other than with reference to covering Individual E's role in or around June 2005, Dr Evans did not formally raise the matter of any of these payments to the headteacher or the governing body at any stage subsequently. The panel noted, in particular that:
 - 2.1. Within the minutes of the governing body meetings and finance and management committee meetings, in relation to which Dr Evans was mostly present, there were no references to, for example, large bonus payments to Dr Evans, pay for covering Individual E's post or extra responsibilities concerning the NSD.
 - 2.2. As one example, the minutes of a governing body meeting on 12 October 2005 made reference to Individual E being retained on a consultancy basis and recorded that his other duties had been transferred to another member of staff, Individual X, but made no reference to any payment to Dr Evans for covering Individual E's role, notwithstanding the fact that he had received lump sum payments to this end in March 2005 and June 2005.
 - 2.3. Paragraph 281 of the Judgment recorded that the PRC was not informed of any of the payments made pursuant to the ad hoc memos until February

2008. Then, it was then told only of the salary enhancements to Individual F and Dr Evans resulting from certain memoranda. The governing body was misled when asked to approve the payments pursuant to the 'fifth NSD Memo', because it was not informed that Individual F and Dr Evans were already receiving (when awarding salary enhancements of £6,000 and £4,000 respectively) £3,000 and £2,000 per month for work relating to the NSD.

- 2.4. Whilst Dr Evans gave evidence that he believed he raised the issue of payments on more than occasion, the only instance documented was with reference to June 2005, that resulted in a note from Individual F. There was no corroborating evidence to support the fact that Dr Evans discussed these payments with anyone on the governing body, or any other senior individual, on any other occasion. In any event, the panel concluded that if this was ever raised by Dr Evans, it was not done formally to the governing body as a whole.
3. The panel accepted the conclusion of the Council's investigation whereby there was no evidence of a documented, approved bonus scheme, setting out, for example, how such a scheme might work and there was no evidence of any analysis of performance against criteria which would provide a basis for bonuses for individual staff in the relevant period.
4. Dr Evans was aware of at least some of the memoranda giving effect to the payments he received, despite his evidence to the contrary. Dr Evans was a recipient of either a one-off payment or a permanent salary increase via the ad hoc procedure on a total of sixteen occasions over a four-year period, including all seven 'Ali Memos' and all seven 'NSD Memos'. The panel repeats paragraphs 234 to 241 of the Judgment and concluded that Dr Evans did see at least some of the ad hoc memoranda – or the handwritten versions of them – at the time, and that he played at least some part in obtaining Individual G's and Individual Y's sign-off on them. Importantly, from Individual G's and Mr Day's perspective, it appeared that Individual F and Dr Evans were both involved in the ad hoc procedure.
5. However, the panel accepted that Dr Evans did not play any part in making decisions as to the amounts of the payments or the purported justification for them, albeit he had a role in providing information as to affordability in some instances at least.
6. For the reasons set out, none of the payments were compliant with the STPCD. The panel also concluded that, on balance, it was more likely than not that Dr Evans was aware of this document and the School's pay policy, even if only in

general terms. The panel considered it inherently unlikely that he would not have had a general awareness of these documents given his experience, position, duties within the School and his line management responsibilities. Notably, whilst Dr Evans continued to maintain that he was not aware of them at the time, his assertions were undermined by his own witness, Witness D. Witness D gave evidence that Dr Evans was aware of the School's policy and the STPCD and it had been discussed between them.

7. Dr Evans exaggerated the number of hours of work he undertook in purported justification for these payments. His witness statement alluded to his working 80 hours per week. By the time of his oral evidence, on repeated occasions, Dr Evans maintained that he did 70 hours per week over and above his contracted school hours. However, Dr Evans subsequently sought to change his position having reflected overnight. The panel concluded that his assertions regarding the hours he worked were implausible.

The panel's findings

The panel went on to consider the specific payments received by Dr Evans in relation to allegations 1(a) to 1(j)

It sets out its findings below.

1. The panel noted and repeated paragraphs 420 to 423 of the Judgment, which record:

"420. There came a point, certainly in relation to Individual F and Dr Evans, where, in light of previous payments for the same or other additional duties, this had to amount to double payment: they simply could not have carried out the claimed further additional duties otherwise than at the expense of work comprised within their job description or of other work already being rewarded by generous payments via the ad hoc procedure.

421. While Dr Evans said that he drew, in his own mind, a distinction between bonuses and reward for additional duties, he was unable to apply that distinction clearly to the payments authorised by the ad hoc memos. At one point he suggested that a one-off payment in a rounded sum was likely to have been a bonus, whereas a monthly salary enhancement would have been for additional work done. That does not stand up to scrutiny, however, in the face of the clear language of the many ad hoc memos which, while awarding rounded lump sums, purported to justify them as reward for the many hours spent, for example, working on the NSD or covering for Individual E. Moreover, it is inconsistent with the payslips of the various

recipients which, generally speaking, described the payments made via the ad hoc procedure as “additional responsibilities” but described the payments made via the PRC as “bonuses”.

422. *It must be borne in mind that Individual F and Dr Evans were in receipt of salaries at the top of the relevant pay scale for undertaking a full-time role as, respectively, [redacted] and deputy head. In Individual F’ case, in 2003 his salary was just over £94,000, and by 2009 it was just over £107,000. In Dr Evans case, the equivalent figures are £71,691 and £93,440.*
423. *In addition, from November 2005, Individual F was in receipt of a permanent salary enhancement of £54,000 per year (£1,500 per month pursuant to the first Ali Memo, and £3,000 per month pursuant to the first NSD Memo) specifically for undertaking additional duties over and above his full-time job. The equivalent for Dr Evans, for the same reasons, was a permanent pay rise worth in the region of £33,000 per year. For their attendance at the school on Saturdays and during holidays when there were booster lessons, they received additional pay ... Dr Evans received between approximately £14,000 (in 2005-2006 and 2006-2007) and £32,850 (in 2008-2009).*
424. *These salary enhancements equalled approximately 70% of their basic salary. In other words, they were receiving another 70% of salary, on top of their salary for performing full-time roles, for taking on additional responsibilities."*
2. Accordingly, in relation to all the payments, the panel did not accept that Dr Evans could have genuinely believed that the further payments paid to him pursuant to allegations 1(a) to 1(j), beyond his salary and the initial salary enhancements he received, could be justified on the basis that he was actually carrying out further work.
 3. As commented in the Judgment, there were simply not enough hours in the week for that conclusion to be justified.
 4. Yet despite this, pursuant to the ad hoc procedure between 2005 and 2008, Dr Evans received one-off payments totalling £220,000 and a further salary enhancement, from June 2007, of £48,000 per year, thereby averaging over the same period another £73,000 per year. If Dr Evans was performing the work for which any of these payments were made, then it must follow that work was being done during time for which he was already being handsomely rewarded for carrying out other duties.

5. With specific reference to the payments made in relation to allegations 1(a), 1(c) and 1(d), which were all purportedly justified with reference to covering Individual E, a total of seven memos authorised payments for additional duties resulting from the retirement of Individual E.
6. The minutes of the governing body meeting on 12 October 2005 include a reference to Individual E being retained on a consultancy basis to assist with timetabling and his other duties had been transferred to a Mr Knight. There was no reference to additional payments being made to Dr Evans for covering Individual E's role in these minutes. However, Dr Evans had already received lump sum payments in March 2005 and June 2005. None of the payments made to Dr Evans with reference to these allegations were formally approved by the governing body, the finance management committee or the PRC at the time they were made.
7. The fact that Dr Evans raised the matter of whether the re-distribution of Individual E's salary constituted a saving to the School to Individual F in June 2005 showed an awareness of this as a real and genuine concern on his part. Far from absolving him of future responsibility, as he suggested, this provided an enhanced basis for Dr Evans needing to ensure that future payments were transparent, properly authorised and justified, as a minimum. The payments made with reference to these allegations were none of these things. The purported justification of them was false.

Further, the response Dr Evans received from Individual F, having raised this as a concern, confirmed that the overall intention was that a saving was to be made. Far from representing a saving, the payments represented double-payments and additional expense to the School in circumstances where there was no objective justification in terms of additional work and/or responsibilities. They were not compliant with the STPCD. Whilst Dr Evans did undertake some additional work, pursuant to the reorganisation following the departure of Individual E, much of that would have been undertaken during the normal working day in any event, and as such fell within the description of his duties.

8. On balance, Dr Evans must have known, particularly having regard to the totality of the payments he received with reference to allegations 1(a), 1(c), 1(d), that the suggestion the School was saving money was untrue, that the payments were not justified and there was a risk that School funds were being improperly used. They were received in circumstances when Individual E remained at the School for two days per week. Dr Evans repeatedly stated that he did not see Individual E, which the panel considered was extremely unlikely.

9. In relation to allegations 1(b), 1(f), 1(g), 1(h) and 1(j), which were purportedly justified in relation to work allegedly undertaken in connection with the NSD, the bonus payments and additional salary enhancements were paid and received in circumstances that ignored the fact that Dr Evans was already in receipt of a salary enhancement of £2,000 from September 2005. The cumulative position became more extreme. Further lump sum payments and enhancements were made with no account given to those that preceded them, over and above that initial salary enhancement. As such, there was obvious double-counting. Even if it could be said that Dr Evans did additional work to justify the salary enhancement of £2,000 per month paid to him from September 2005 onwards, there was no basis or justification to say that he did additional work justifying the payments and further salary enhancement awarded pursuant to these allegations. That was particularly so when building work related to the NSD never started.
10. Furthermore, Dr Evans was paid for his full-time role at the School. Even if he had been separately well-qualified in project managing building developments, it would still have been wrong to employ him as such, while at the same time being paid to do his full-time teaching role.
11. The same points applied in relation to allegation 1(e) and Chalkhill. Whatever work was ultimately undertaken, it must have been either during the working day for which he was being paid a full-time salary or during time for which he was in receipt of salary enhancements of approximately 70% of his basic salary and the £40,000 paid to Dr Evans in the first five months of 2007, supposedly for additional duties relating to Individual E's work and the NSD.
12. Finally, with reference to allegation 1(i), the payment of £10,000 pursuant to the memorandum of 7 July 2008 had to be viewed within the wider context. The panel considered if this was the only payment made, it might have been reasonable for Dr Evans to have believed it was justifiable. However, in light of the payments previously made to him, considered in totality, Dr Evans must have been on notice of the risk that it was not justifiable and amounted to an improper use of funds.
13. Having regard to all of these factors, the panel concluded that there was no reasonable basis or justification for any of the payments Dr Evans received pursuant to allegations 1(a) to 1(j), which were arbitrary in nature. Dr Evans, who would have known what payments he was receiving, must have appreciated that, despite his protestations to the contrary. These were large, round sums with no attempt to match the payments to extra hours of work alleged to have been undertaken. The cumulative effect of the payments, over time, would have been obvious. In arriving at that conclusion, the panel took particular account of the following parts of the Judgment:

- "585. ...Although not involved in the drafting of the memos, [Dr Evans] was aware of the existence of the ad hoc procedure; the fact that Individual F drafted the memos; and the content of at least some of the memos – which he saw either in typed or manuscript form – from which he would have been aware of the fact that the payments sought were invariably approved. He was also aware that, apart from a few exceptions, the payments were not revealed to the PRC.
586. Most important, Dr Evans was aware of the cumulative effect of all of the payments made to him pursuant to the memos. Indeed, this had provoked him to query with Individual F whether the payments under the third Ali Memo amounted to a saving to the school. In other words, at that point (in June 2005) he did in fact have concerns that the payments could not be justified. The fact that he made enquiries, and he received an apparently satisfactory response, precludes a finding that his receipt on that occasion was unconscionable.
587. This is in stark contrast, however, to his failure to make any similar enquiries in relation to subsequent payments, even where there could have been no objective justification for the payments he was receiving. As I have already noted, Dr Evans was a recipient, along with Individual F, of payments under all but a handful of the memos. Most of the payments made to Dr Evans mirrored the payments made to Individual F. They were smaller in amount because Dr Evans, as a deputy head, was in receipt of a smaller salary. As a proportion of his basic salary, however, they were broadly commensurate with the payments made to Individual F. Accordingly, much of what I have said in relation to Individual F has equal resonance in relation to Dr Evans. That includes the fact that – from November 2005 onwards, Dr Evans was in receipt of a permanent salary increase which, together with payments for Saturday school and holiday classes, amounted to approximately 70% of the salary he already received for doing what was supposed to be a full-time job. He cannot have failed to appreciate that to earn 70% of his salary again he would have to be spending all his available spare time on school matters. Equally, therefore, he must have known that time spent by him on any further additional duties must have been during time he was already being rewarded – either by way of his basic, or his additional, salary.
588. In light of the sheer size and frequency of the payments made to him on top of this, the point was reached – certainly by the time of payments made to him that fall within the limitation period (that is, after 10 July 2008) – that he must have appreciated at least the risk that the payments could not be justified."

14. This panel was not constrained by limitation and considered that this point was reached by the time of the earliest of the payments set out in allegations 1(a) to 1(j). This was consistent with the following findings in the Judgment:

"595. ... I find that the point at which Dr Evans was sufficiently aware of matters that would have demonstrated to a reasonable person in his position the risk that the payments were not a proper use of school funds was on receipt of the payment pursuant to the fifth Ali Memo (13 March 2006).

596. I accept that having queried the third Ali Memo and received a satisfactory answer in June 2005 (see paragraph 412 above), he thereafter would reasonably have believed that the one-off Ali payments related to particular time periods and would be repeated. Nevertheless, a payment in March 2006 of £15,000 within two months of a payment of the same amount (pursuant to the fourth Ali Memo in January 2006) should have set alarm bells ringing. When this was followed a mere three months later by a payment of £20,000 for working on the NSD, for which he was in receipt of a £24,000 per year salary increase, he ought to have realised that he was in receipt of sums that could not be justified by reference to additional responsibilities taken on by him.

597. I find in particular that any reasonable person in his position, on receiving three payments of £20,000 in quick succession in the first half of 2007, followed immediately by the further salary enhancements of £4,000 per month in June 2007, would have been sufficiently concerned to have made enquiries of the GB.

598. Accordingly, were it not for the claim being time-barred, I would have found that Dr Evans was liable in knowing receipt in respect of the payments received by him from March 2006 onwards."

15. The panel accepted that Dr Evans worked hard and that he was dedicated to the education of the School's pupils. He also devoted large parts of his spare time to the School. However, he also knew that the payments were made from public funds, which were subject to strict regulation which required them to be paid only for educational purposes. He was at least aware of the STPCD, and should have appreciated that it imposed limits on pay. He was not merely a recipient of funds but was involved, to at least some extent, in financial management at the School.
16. In all the circumstances, the panel concluded that Dr Evans must have been aware of the risk that every one of these payments could not be justified. It was not credible that he believed that they were justified. A reasonable person in his

position would certainly have been aware of that risk and would have made enquiries of the governing body. Dr Evans made no such enquiries in relation to any of these payments.

17. Accordingly, Dr Evans' conduct as found proved in allegations 1(a) to 1(j) was unconscionable. He appreciated the risk that these payments were an improper use of the School's funds but failed to make enquiries of the governing body, which he should have done and had a duty to do, to ensure that they could be justified and were a proper use of funds.

The panel therefore found allegation 2 proved.

- 3. You acted with a lack of integrity and/or were dishonest in relation to your conduct, as may be found proven, at 1 and/or 2 above in that you knowingly received payments from school funds which were unjustified when;**
 - (a) your position within the school as Deputy Head Teacher Finance and Resources meant you were involved to a degree in the financial management of the school;**
 - (b) you were aware of the cumulative effect of all the payments made to you pursuant to all of the memos;**
 - (c) you failed to make any enquiries to ensure the payments received by you were a proper use of school funds, even where there could have been no objective justification for the payments you received.**

The panel went on to consider whether Dr Evans' conduct was dishonest and/or lacked integrity.

With reference to the precise wording and sub-limbs of allegation 3 and having regard to its findings in allegation 2, the panel proceeded from the basis that these payments were knowingly received by Dr Evans and were unjustified when:

- a. He was involved to a degree in the financial management of the School, for the reasons set out.
- b. He must have been aware of the cumulative effect of all the payments made him pursuant to all of memoranda relevant to allegations 1(a) to 1(j).
- c. Dr Evans did fail to make enquiries of the governing body, or anyone else at an appropriate level of authority and/or seniority, to ensure the payments received were a proper use of funds when there was no objective justification for them to be made.

In determining whether his conduct was dishonest, the panel considered Dr Evans' state of knowledge or belief as to the facts before determining whether his conduct was dishonest by the standards of ordinary decent people.

As regards a lack of integrity, the panel took account the decision of the Court of Appeal in *Wingate v SRA; SRA v Mallins* [2018] EWCA Civ 366. It recognised that integrity denotes adherence to the ethical standards of the profession and the panel therefore considered whether, by his actions, Dr Evans failed to adhere to those standards.

Having regard to all of the evidence before it, the panel concluded, on balance, that Dr Evans' conduct, as found proved, was not dishonest.

Notwithstanding the points made above, regarding the fact that Dr Evans must have appreciated the risk that these payments were an improper use of the School's funds, the panel took account of the following matters in particular regarding his state of mind at the time:

1. Whilst there may have been a culture of secrecy in place at the School in relation to bonuses, Dr Evans made no effort to conceal the receipt of these payments.
2. Dr Evans did not expressly advise anyone or any body that the payments being recommended were lawful and in accordance with the STPCD.
3. The Judgment records that in relation to at least some of the payments, Individual F, who proposed the payments, honestly believed that it was a proper use of school funds to make additional payments for additional duties undertaken. It followed that there was no basis for saying that Dr Evans did not hold a similar view and, at least to some extent, Dr Evans did undertake additional duties.
4. It had long been the practice of the governing body neither to see, nor make any enquiries about, payments to staff other than by reference to aggregate numbers that did not distinguish between basic salaries and bonuses. That practice continued notwithstanding that the governing body, or at least many of the governors, were aware in general terms of the practice of paying bonuses.
5. Dr Evans did not believe that the payment of bonuses or remuneration for additional responsibilities was itself unlawful and nor did he believe that the ad hoc process itself was unlawful or improper.
6. Dr Evans did not seek to conceal the payments from the Council.

It followed that, in relation to each of these payments, Dr Evans was not being deliberately misleading and his actions were not tantamount to deception.

This was not, in the panel's view, dishonest conduct by the standards of ordinary decent people.

However, for the same reasons as set out in allegation 2, the panel concluded that Dr Evans' conduct, in receiving each of the payments set out in allegations 1(a) to 1(j), did amount to a lack of integrity. He appreciated the risk that these payments were an improper use of the School's funds yet failed to make enquiries of the governing body. As such, he showed a disregard for the duties and responsibilities upon him as a senior teacher within the School with some responsibility for financial management. There was an obvious impact on the School's finances to Dr Evans' benefit, particularly when the payments are viewed cumulatively. The amount of money received by Dr Evans pursuant to these payments, considered as a whole, was extraordinary in the context of public, school finances.

The panel therefore found allegation 3 proved in part.

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

Having found allegations 1(a) to 1(j), 2 and 3 (in part) proved, the panel went on to consider whether the facts of those allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

This was denied by Dr Evans.

The panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

However, the panel was mindful of the fact that this proven conduct occurred between 2006 and 2008, such that the current Teachers' Standards were not in force at that time.

The panel was therefore referred to the GTCE's Code of Conduct and Practice for Registered Teachers ("the Code"), which was in force at the time of these events.

The panel considered it was appropriate to have regard to the Code insofar as it set out minimum standards for the regulation of the profession at that time.

The panel considered that Dr Evans' proven conduct engaged the following part of the Code:

"Registered teachers may be found to be guilty of unacceptable professional conduct

Where they fail to:

6. *Maintain appropriate standards of honesty and integrity in management and administrative duties, including in the use of school property and finance*

Where they:

...

8. *Otherwise bring the reputation and standing of the profession into serious disrepute."*

In addition, the panel considered that the Code's 'Further Information' section was also relevant, which included:

"Paragraph 6: Standards of honesty and integrity

- *Failure to comply with school and LA financial and accounting procedures*

Paragraph 8: Bringing the profession into serious disrepute

Conduct in this category would include behaviour which was seriously detrimental to the standing of the profession but where no criminal offence was committed."

On this basis and having regard to its findings, which included that Dr Evans lacked integrity, the panel was satisfied that his conduct did amount to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

These payments were made over a significant period of time, in circumstances where the cumulative effect was extremely concerning and amounted to an improper use of school funds. The payments were not compliant with the STPCD. Dr Evans was a senior and experienced practitioner in a position of trust and responsibility. He was also a role model to other staff at the School. The panel's findings were such that he fell seriously short of the standards expected of him in this regard.

Accordingly, the panel was satisfied that Dr Evans was guilty of unacceptable professional conduct.

In relation to whether Dr Evans' conduct may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

In relation to the panel's findings, it concluded that an average member of the public would be shocked and troubled by the nature and extent of the payments received by Dr Evans. They amounted to an improper use of the School's funds in circumstances where

Dr Evans must have been aware of the risk that every one of these payments, from public funds designated for the School, which was located in an area of socio-economic deprivation, could not be justified.

Accordingly, the findings of misconduct are serious. Dr Evans' actions would be likely to have a negative impact on his status as a teacher, potentially damaging the public perception.

The panel therefore also found that Dr Evans' actions constituted conduct that may bring the profession into disrepute.

In conclusion, having found the facts of allegations 1(a) to 1(j), 2 and 3 (in part) proved, the panel further found that Dr Evans' 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. 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 protection of pupils and other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

First, no pupils were directly impacted by Dr Evans' conduct. That was clear from its findings and the panel addresses, below, the positive public interest in retaining Dr Evans in the profession. Nonetheless, the panel concluded there was public interest consideration in respect of the protection of pupils and other members of the public, in the following respects. Dr Evans' conduct lacked integrity. Further and most saliently, his actions involved public funds and the misuse of school funds. That had consequential implications and indirectly posed risks in terms of learning and education. This money should, very clearly, have been utilised for educational purposes.

Secondly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Dr Evans were not treated with

the utmost seriousness when regulating the conduct of the profession. Not only were these payments an improper use of the School's funds, he received these monies in circumstances where Dr Evans must have been aware of the risk. Dr Evans was in a position of responsibility and trust and he was also a role model. He fell seriously short of the standards expected of him in that regard.

In a similar vein, the panel was also of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present. The conduct found against Dr Evans was outside that which could reasonably be tolerated.

Weighed against these matters, the panel also considered whether there was a strong public interest consideration in retaining Dr Evans in the profession.

Certainly, no doubt had been cast upon his abilities as an educator and indeed the contrary was true. The panel was presented with very persuasive evidence that Dr Evans was very highly regarded as an educator, both in terms of his classroom performance and, previously, as a school leader. There was no doubt that whilst at the School, its performance greatly improved, and he deserved a share of the credit for that. It was particularly noteworthy that he had worked successfully in education since leaving the School and continued to do so. That encompassed a very long time period. This is an issue to which the panel returns, below. Dr Evans also referred to a number of personal achievements, which were worthy of appropriate note.

For these reasons, the panel concluded there was a strong public interest in Dr Evans continuing to work in education.

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 Dr Evans.

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 Dr Evans.

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:

- Whilst the Teachers' Standards were not directly relevant, by analogy, Dr Evans' conduct breached various provisions of the Code and did constitute a serious departure from the standards expected of him;
- A lack of integrity; and
- Collusion or concealment including:

- failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions;

The panel went on to consider what mitigating factors were relevant in this case. In the light of the panel's findings, it considered the following factors were present:

- Dr Evans had a previous good history. He had an otherwise unblemished record in that there was no evidence that Dr Evans had been subject to any previous regulatory or disciplinary proceedings.
- Dr Evans provided a number of character references and testimonials, which depicted him in positive terms.
- The panel heard evidence from Dr Evans' current and previous headteachers. As well as addressing Dr Evans' wider contribution to his current school, they spoke very highly in terms of his teaching practice. He was described as someone who was very supportive to pupils, from all backgrounds, and was able to engage with them positively, going out of his way to do so.
- It followed that, excluding the matters now found proved, Dr Evans had demonstrated exceptionally high standards in both personal and professional conduct both prior to and since these events. Since leaving the School, he has continued to contribute significantly to the education sector. The view of credible, senior teachers was that he was a good teacher and supportive of junior staff members. It was confirmed that no parent had ever complained about Dr Evans, despite his position coming under scrutiny due to adverse media coverage.
- The allegations were derived from a broader context at the School in which a culture of paying bonuses and enhanced salaries became embedded and, if not quite to the same extent, pre-dated his arrival at the School. The bonus scheme, such as it was, was operating in plain sight and payments were sought and paid via the Council. Dr Evans, along with others, did not believe them to be unlawful at the time. Dr Evans was far from alone in receiving funds over and above his salary, albeit along with Individual F he was the most significant beneficiary.
- It was apparent that Dr Evans was still of a mindset, to a large extent, that his actions were defensible. Not least, Dr Evans continued to maintain that his conduct was not unconscionable or lacking integrity. He therefore denied the allegations, albeit that was in circumstances where extensive criticism was made of the allegations. In particular, it was submitted that the way in which they were drafted precluded formal admissions being made.
- For these reasons, Dr Evans' insight was far from complete, which was something of a concern given the passage of time. Nonetheless, there had been no repetition

of the same or similar conduct in the period since Dr Evans left the School. Given that period spanned 14 years, this was a significant mitigating factor. Indeed, there was clear evidence, as noted above, that Dr Evans had worked very successfully in education throughout that period with an unblemished record.

- These proceedings have been ongoing for an extremely long time. Through no fault on the part of Dr Evans, there has been considerable delay in this case reaching a final hearing because of the existence of other, relevant proceedings. That would undoubtedly have had an impact upon him. Indeed, there was a distinct impact of the delay in this case in terms where, had the referral been determined prior to 2012, Dr Evans would have been subject to a different sanctions regime.
- In the intervening period, Dr Evans had been subject to other civil and criminal proceedings referred to in the panel's introduction. He would undoubtedly have continued to have felt the consequences of his actions. That could be regarded as a form of punishment in itself. Pursuant to the Judgment, Dr Evans was ordered to make repayment of some of the monies he received.
- There was no evidence that Dr Evans' conduct directly impacted learners.
- Dr Evans fully engaged in these proceedings. He gave oral evidence to the panel and subjected himself to questions. He had been open and transparent with his current employer.
- Dr Evans has shown some regret and remorse. With the benefit of hindsight, he was able to recognise the perception of all that occurred in terms of the totality of the payments he received.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Dr Evans' actions amounted to a breach of the Code.
- His conduct raised serious concerns and took place over a prolonged period.
- His actions involved public funds whereby the payments received by Dr Evans had the effect that school funds were misused. It followed that his actions had the potential to impact, albeit indirectly, on learning
- Dr Evans' actions were unconscionable and lacked integrity. Whilst he may have acted in the context of the School's culture at the time, he remained responsible for his actions.

- In a similar vein, Dr Evans was an experienced teacher who had some involvement in financial management at the School. He appreciated the risk that these payments were an improper use of the School's funds should have conducted himself accordingly.

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.

The nature of the proven conduct in this case was serious for the reasons outlined. The cumulative effect of the payments Dr Evans received gave rise to obvious concerns and called into question Dr Evans' integrity. The panel has already set out that an average member of the public, aware of the precise circumstances, would be shocked and troubled by the extent to which school funds were misused.

However, having considered the mitigating factors present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case for the following reasons in particular.

First, the panel accepted that Dr Evans was, but for these matters, an exceptional practitioner who was likely to make a positive impact in education in the future for the remainder of his career.

Secondly, whilst this misconduct continued for a long period, the context was crucial. The entire ethos of the School, in terms of the payment of bonuses, went badly awry and Dr Evans was one of a number of people who got caught up in all that went on.

Thirdly, the panel concluded that the risk of repetition was extremely low. There had been no repetition of the same or similar conduct in the period since he left the School. Having gone through this process, the panel considered it was highly unlikely that Dr Evans would put himself in the same situation again.

Indeed, the panel considered that at the heart of this case was a highly unusual state of affairs. This was a unique set of circumstances that was unlikely to ever arise again and the panel was satisfied that Dr Evans will have learnt important lessons. Even in circumstances where Dr Evans' insight was not where the panel would have liked it to have been, he did not present a continuing risk.

Finally, these proceedings were very historic and spanned the previous regulatory regime that applied to teachers in England. The facts of this case had generated criminal and

civil proceedings. The Judgment was not handed down until 2018, at which point these proceedings still took another five years to reach a conclusion. Throughout that time, the panel had no doubt that these proceedings, and the risk they posed to Dr Evans' teaching career, will have weighed heavily upon him. As such, the panel considered that a prohibition order, against that backdrop, would be excessively punitive in circumstances where there was limited risk of repetition.

In light of all these matters and the other mitigating factors identified above, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

Having very carefully taken account of the public interest considerations Dr Evans' proven conduct gave rise to, the panel considered that the publication of the adverse findings it has made would be sufficient to send an appropriate message as to the standards of behaviour that were not acceptable.

The panel considered this is a proportionate outcome, which struck a fair balance between the public interest and Dr Evans' interests.

In the panel's judgment, the public interest in protecting pupils and other members of the public was not a continuing concern given the limited risk of repetition and having in mind that Dr Evans' conduct did not directly impact on learners or learning. The panel was also satisfied that its decision maintains public confidence in the profession and upholds professional standards.

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 the majority of the allegations proven, although there are some elements where the panel has indicated that it has disregarded some specific details of some allegations, or, in the case of allegation 3, where it has found the whole allegation only proven in part. In these instances, I have put any of those matters entirely from my mind.

The panel has recommended that where it has made findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, that should be published, and that such an action is proportionate and in the public interest.

In particular, the panel has found that Dr Evans is in breach of the following:

“The panel considered that Dr Evans' proven conduct engaged the following part of the Code:

"Registered teachers may be found to be guilty of unacceptable professional conduct

Where they fail to:

6. *Maintain appropriate standards of honesty and integrity in management and administrative duties, including in the use of school property and finance*

Where they:

...

8. *Otherwise bring the reputation and standing of the profession into serious disrepute."*

In addition, the panel considered that the Code's 'Further Information' section was also relevant, which included:

"Paragraph 6: Standards of honesty and integrity

- *Failure to comply with school and LA financial and accounting procedures*

Paragraph 8: Bringing the profession into serious disrepute

Conduct in this category would include behaviour which was seriously detrimental to the standing of the profession but where no criminal offence was committed."

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 or conduct likely to 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 Dr Evans, 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 and safeguard pupils. The panel has observed, “Nonetheless, the panel concluded there was public interest consideration in respect of the protection of pupils and other members of the public, in the following respects. Dr Evans' conduct lacked

integrity. Further and most saliently, his actions involved public funds and the misuse of school funds. That had consequential implications and indirectly posed risks in terms of learning and education. This money should, very clearly, have been utilised for educational purposes.” 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, “Dr Evans has shown some regret and remorse. With the benefit of hindsight, he was able to recognise the perception of all that occurred in terms of the totality of the payments he received.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the findings of misconduct are serious. Dr Evans’ actions would be likely to have a negative impact on his status as a teacher, potentially damaging the public perception.”

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 or conduct likely to bring the profession into disrepute, 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 Dr Evans himself. The panel comment “he has continued to contribute significantly to the education sector.”

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

For all 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: Alan Meyrick

Date: 23 May 2023

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