



Teaching  
Regulation  
Agency

# **Mr Malcolm Drakes: Professional conduct panel outcome**

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

**August 2023**

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

<b>Teacher:</b>	Mr Malcolm Drakes
<b>TRA reference:</b>	18279
<b>Date of determination:</b>	3 August 2023
<b>Former employer:</b>	Mead Primary School, and Broadford Primary School

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 1 November 2022 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Malcolm Drakes (“the Initial Hearing”).

The original professional conduct panel members at the hearing that convened on 1 November 2022 were Mr John Armstrong (lay panellist – in the chair), Ms Mona Sood (lay panellist) and Mr Paul Hawkins (teacher panellist).

The legal adviser to the panel at the Initial Hearing was Mr James Danks of Blake Morgan LLP.

Following a consent order dated 7 June 2023, the case was remitted to a differently constituted professional conduct panel to make a fresh recommendation as to whether a prohibition order should be made. This hearing was convened from 2 August to 3 August 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT (“the Second Hearing”). The original professional conduct panel’s conclusions that Mr Drakes had been guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute and the factual findings underlying those conclusions bound the new professional conduct panel. However, its findings on matters relating only to the recommendation to impose a prohibition order did not bind the new professional conduct panel.

The newly constituted panel members at the Second Hearing were Mrs Christine McLintock (teacher panellist - in the chair), Mrs Shabana Robertson (lay panellist) and Mr Stephen Chappell (lay panellist).

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

The presenting officer for the TRA throughout both hearings was Ms Holly Quirk of Browne Jacobson LLP.

Mr Drakes was present and represented by Mr Andrew Faux of counsel throughout both hearings.

The hearings took place in public and were recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 31 August 2022.

It was alleged that Mr Malcolm Drakes was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as executive headteacher at Broadford Primary School (The Learning Federation) during academic year 2017/2018:

1. In respect of the Key Stage 2 assessments, he caused and/or permitted and/or failed to prevent maladministration including by:

a. on 14 May 2018, in relation to English Spelling, Punctuation and Grammar tests he:

i. excessively assisted pupils;

ii. indicated to pupils during tests that the answer they had provided was right and / or that they should review answers which were incorrect;

iii. allowed other staff members to excessively assist pupils.

b. between 15 May 2018 and 17 May 2018, in relation to Maths Paper 3 (Reasoning) tests he:

i. excessively assisted and/or allowed other staff members to excessively assist.

2. His conduct as may be proven at allegation 1 above, lacked integrity and / or was dishonest in that he was seeking to unfairly improve assessment outcomes for one or more pupils.

Within a statement of agreed and disputed facts (undated but it was confirmed by Mr Faux that the document was agreed by both parties in 'Summer 2022') Mr Drakes admitted all of the facts of the allegation, save that his conduct was dishonest. At the commencement of the hearing, Mr Drakes accepted that his conduct was dishonest.

Mr Drakes also accepted that his behaviour amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

## Preliminary applications

At the commencement of the hearing, the panel received an application on behalf of Mr Drakes that his updated witness statement be allowed into evidence. Mr Faux explained that this document had, in fact, been served on the TRA more than four weeks prior to the hearing. However, as the panel had received it late, he made the application for completeness.

There was no objection from the TRA, and the panel was content that this document was relevant and fair to be admitted.

## Summary of evidence

### Documents

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

Section 1: Chronology and anonymised pupil list – pages 14 to 16

Section 2: Notice of proceedings, response and statement of agreed and disputed facts – Mr Drakes – pages 18 to 37

Sections 3 to 5: removed

Section 6: Teaching Regulation Agency witness statements – pages 95 to 486

Section 7: Teaching Regulation Agency documents – pages 488 to 737

Section 8: Mr Drakes' documents: pages 739 to 888

In addition, the panel agreed to accept the following:

- Witness statement from Mr Drakes

The panel confirmed that they had read all of the documents within the bundle, in advance of the Initial Hearing and the additional documents that the panel decided to admit.

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

Part A: Additional documents following appeal

Section A – Notice of hearing – page A3

Section B – Submissions – pages A4 to A37

Section C – Evidence – pages A38 to A43

Part B: Appeal documents – pages B2 to B71

Part C: PCP Hearing bundle – page C3 to C1081

Part D: Transcript of PCP hearing 1 to 9 November 2022 – pages D2 to D51

Part E: Other PCP decisions – pages E2 to E92

An agreed reading list was provided. The panel confirmed that they had read all of the documents within the bundle, in advance of the Second Hearing.

## **Witnesses**

The panel heard oral evidence from

- Witness A, [REDACTED]
- Witness B, [REDACTED]
- Malcolm Drakes;
- Witness C.

The first two witnesses were called on behalf of the TRA, and the remainder for Mr Drakes.

Mr Drakes gave oral evidence for a second time at the Second Hearing.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

At the relevant time, Mr Drakes was the executive headteacher of Broadford and Mead Primary Schools, which became federated in in September 2016 under the banner of The Learning Federation.

Individual H was the [REDACTED] of Mead Primary School ('Mead'), and had been since January 2016, and since September 2014, Individual I was the [REDACTED] of Broadford Primary School ("Broadford"). Individual J had been employed as a [REDACTED] at Mead since April 2015.

In 2017, the Standards Testing Agency ('STA') received a whistleblowing complaint regarding the KS2 tests at Broadford, which led to a visit by a representative in May 2018.

On 14 May 2018, an English Spelling, Punctuation and Grammar ('SPAG') Paper 1 test was taken by a number of Year 6 pupils. This test was administered by Individual I, with Mr Drakes also present and, for approximately ten minutes, Individual H and Individual J also.

On 17 May 2018, Mr Drakes and Individual I were present, in an official capacity, for a Maths Paper 3 (Reasoning) SATs test.

Subsequent to these 2 assessments, the STA annulled the English Reading and Maths Paper 3 results, due to statistical anomalies.

In August 2018, the STA received a whistleblowing complaint from a member of staff who was present on 14 May 2018. This complaint included a video taken by the staff member during the assessment. These results were also, subsequently, annulled.

In December 2018, Mr Drakes left the employment of The Learning Federation by mutual agreement.

## **Findings of fact**

The findings of fact are as follows:

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

**It was alleged that Mr Malcolm Drakes was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as Executive Headteacher at Broadford Primary School (The Learning Federation) during academic year 2017/2018:**

- 1. In respect of the Key Stage 2 assessments, you caused and/or permitted and/or failed to prevent maladministration including by:**
  - a. on 14 May 2018, in relation to English Spelling, Punctuation and Grammar tests you:**
    - i. excessively assisted pupils;**



**ii. indicated to pupils during tests that the answer they had provided was right and / or that they should review answers which were incorrect;**

**iii. allowed other staff members to excessively assist pupils.**

**b. between 15 May 2018 and 17 May 2018, in relation to Maths Paper 3 (Reasoning) tests you:**

**i. excessively assisted and/or allowed other staff members to excessively assist.**

The panel noted the statement of agreed facts (undated), within which Mr Drakes admitted his conduct as set out in 1a and 1b, and that this amounted to engaging, participating and contributing to the maladministration of Key Stage 2 assessments.

The panel accepted the examples put forward in the statement to evidence this conduct, which included:

- Over pronouncing words, such as stating 'arc-i-TECT' and 'D-e-send-dant' to assist the pupils to spell architect and descendant respectively;
- Indicating when a pupil needed to review an answer; and
- Stating that a pupil needed to leave space between words within an answer.

The panel received live evidence from Witness A, who conducted the investigation into the concerns. Witness A gave evidence in a manner consistent with his witness statement.

During this evidence, Witness A accepted that Mr Drakes did not fundamentally deny the concerns raised, but that the audio and video recordings did assist Mr Drakes' memory as to what had happened. At this point during the interview, Witness A stated that Mr Drakes accepted that his conduct, as seen and heard in the recordings, was not appropriate.

The panel also received evidence from Witness B. Witness B explained the reasoning for the test results being annulled by the STA and gave an indication as the potential effects that this annulment may have on the pupils' future education careers. She described an annulment as being a 'negative mark on the school'.

Witness B accepted that, when a pupil moved to a secondary school, it would not be unusual for that school to evaluate the pupil based on its own terms, rather than based on the Key Stage 2 assessment results. To that extent, she accepted that there was not necessarily a long-term impact on the pupils.

However, Witness B did state that such an evaluation could only be made once the pupil was at the secondary school, and the level at which the pupil commenced at the school would depend on their previous assessment results. To that end, there was a direct consequence in giving unfair assistance to the pupil, which would likely lead to inflated results.

Mr Drakes also gave evidence to the panel. He accepted that, on both of the dates, he set the tone of the room and was the person that people looked to in terms of how to behave. In his evidence, he maintained his full and unequivocal acceptance to the facts of particular 1.

The panel was also assisted by the audio / video recordings, which gave a clear impression to the panel as to the environment and events in the assessment room.

Based on the clear admissions made, and the other evidence received, the panel determined that all of this particular to be proved.

**2. Your conduct as may be proven at allegation 1 above, lacked integrity and / or was dishonest in that you were seeking to unfairly improve assessment outcomes for one or more pupils.**

Mr Drakes accepted that, on both occasions, his actions were dishonest and lacked integrity. He did state that his intention was always to assist pupils, rather than to obtain any particular benefit for Broadford, or himself as the executive headteacher of The Learning Federation.

In the panel's view, it was clear that Mr Drakes was aware that he was acting in a manner that was not appropriate, and that an objective bystander would deem his conduct to be dishonest and therefore found the particular proved on that aspect. It necessarily follows that the panel also considered the particular proved in respect of there being a lack of integrity.

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

Before determining any matters at stage 2, the panel did carefully consider the arguments put forward by Mr Faux that s141B of the Education Act 2002 ('EA 2002') did not allow both unacceptable professional conduct and conduct that may bring the profession into disrepute to be alleged.

S141B EA 2002 states the following:

*The Secretary of State may investigate a case where an allegation is referred to the Secretary of State that a person to whom this section applies—*

*(a) may be guilty of unacceptable professional conduct **or** [emphasis added] conduct that may bring the teaching profession into disrepute, or*

*(b) has been convicted (at any time) of a relevant offence*

Mr Faux submitted that the statute effectively bound the panel by its use of the term 'or'. In his view, this meant that the TRA could only allege UPC or conduct that may bring the teaching profession into disrepute, but not both.

Miss Quirk invited the panel to consider the use of the word 'or' inclusively, and that both allegations could be made.

No other material to support either parties' case was provided.

In the panel's view, the argument from Mr Faux had some weight based on the drafting of s141B, which did allow for some ambiguity. However, the panel also determined that s141B did not explicitly prohibit both allegations being made against a teacher. Were that to have been the intention behind the drafting, then parliament would, and could, have simply made this with the addition of, for example, 'either.'

The panel was therefore content that both allegations were to be answered by the teacher.

Mr Faux also submitted that the correct Advice document to be considered by the panel at this point of proceedings was the version in place in May 2018 (dated October 2015). He explained that a teacher needs to have sufficient clarity as to how to behave, which is in part based on the Advice at the time.

Miss Quirk objected to this argument and submitted that the February 2022 Advice was the version to be applied by the panel, based on the date of the hearing, but accepted the decision was a matter for the panel's discretion.

In the panel's view, the 2015 Advice document (that was in force at the relevant time) was the appropriate version for it to use. For clarity, the panel noted that the wording in this Advice reflected s141B and, for the same reasons given above, the panel was content that this did not prohibit it from considering both UPC and also conduct that may bring the profession into disrepute.

Each of the differently dated Advice documents contained some guidance as to what amounted to UPC and conduct that may bring the profession into disrepute ('disrepute'). Whilst the guidance for UPC was substantively consistent within all of the differently dated Advice, the guidance for disrepute did vary.

It appeared to the panel that it would be unfair to any teacher for the applicable Advice to be anything other than the one in place at the time of the alleged conduct. For it to be

otherwise would mean that a decision on UPC or disrepute could differ solely down to when a hearing was convenient to be scheduled. Indeed, this particular case was due to be heard in November 2021 and, following Miss Quirk's position, would therefore have consideration to a different Advice that was in place at that time.

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

In doing so, the panel had regard to the 2015 Teacher Misconduct: The Prohibition of Teachers document, which is referred to as "the Advice".

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

There was clear and ample evidence that Mr Drakes was a strong, and to some people inspiring, leader and executive headteacher: and this was significantly to his credit, and the panel received and heard numerous positive plaudits on his behalf.

Nevertheless, on 2 occasions, this also meant that Mr Drakes created, or helped to create, an environment in which important statutory assessments (SATs) were undertaken in a manner that was completely inappropriate. On 2 occasions, he excessively assisted, and allowed other members of his staff to excessively assist a number of vulnerable pupils. Further, on at least one occasion, he directed and prompted another member of staff to provide an answer out loud to a question, to such a degree that she felt compelled to.

It was apparent to the panel that Mr Drakes, in his own words 'created the weather' in the assessments and accepted that he modelled the behaviour in the assessment for the other teachers to follow, to such an extent that, during the hearing, he offered his apologies to the other [REDACTED] present.

Mr Drakes' proven conduct was dishonest on more than one occasion. In the panel's view, such repetition of behaviour increases the seriousness of the same especially considering the consequential impact on pupils, Bradford and the community.

The panel also considered whether Mr Drakes' conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice and found that none of these offences to be relevant.

Nevertheless, for the reasons given above, the panel was satisfied that the conduct of Mr Drakes amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

## **Panel's recommendation to the Secretary of State**

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

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Drakes and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found the following to be relevant in this case, namely, the protection of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

There was a public interest consideration in respect of the protection of pupils. There was a cohort of pupils for whom their SATs results were annulled as a result of Mr Drakes' actions. Their achievements could not be recognised in the way that they normally would and were not available for their progression into secondary school. However, as referred to further below, the evidence that the panel heard as to the insight that Mr Drakes has developed over time, and the evidence of his subsequent conduct of SATs tests assured the panel that going forwards, that it was not necessary to protect pupils from a repetition of wrongdoing.

The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found proven against Mr Drakes was not treated with the utmost seriousness when regulating the conduct of the profession. Maintaining the integrity of the national testing process is fundamental in upholding public confidence in educational outcomes.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found proven against Mr Drakes was outside that which could reasonably be tolerated. This was particularly the case as a result of the aggravating features in this case. Mr Drakes was the most senior person in the room; his colleagues did not feel able to challenge him; they modelled his behaviour and as a result faced misconduct procedures themselves.

Nevertheless, the panel decided that there was a strong public interest consideration in retaining Mr Drakes in the profession, since he is able to make a valuable contribution to the profession. As referred to further below, the panel received copious evidence of Mr Drakes' outstanding contribution to education, his career in teaching and were left in no doubt of his significant achievements.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that it is important to consider the influential role that a teacher can play in the formation of pupils' views and behaviours. It is of the utmost importance that pupils are not left with the view that it is acceptable to cheat the testing process.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 10. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

- misconduct seriously affecting the education and/or well-being of pupils...;

- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils; and

- dishonesty especially where there have been serious consequences and/or it has been repeated and/or covered up.

As noted above, the panel did not consider that there was a continuing risk to the education or wellbeing of pupils. With regard to the last factor, the panel were aware that Mr Drakes conduct had been repeated on a second occasion in the same week of SATs testing.

Even though the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher and whether there were mitigating circumstances.

Mr Drakes' actions were deliberate. However, the panel was satisfied that there were mitigating circumstances that led to Mr Drakes dishonestly assisting particular pupils during their SATs test. The evidence of Mr Drakes and others confirmed that the particular pupils involved were [REDACTED] children with [REDACTED] issues. Mr Drakes encountered two of those children on the morning of [REDACTED] at the school gates and the children were threatening to leave the school site. Absconding from site had been an issue before, and posed a significant safeguarding risk for those children. Mr Drakes described an escalating discussion between those children and the year 6 teaching staff. Staff were threatening to refuse to allow those children to attend a school trip that would usually be a reward for the children at the end of the SATs testing week. It was Mr Drakes' perception that the staff were antagonising the children to leave the site which went against the culture that he thought he had engendered of the school being a safe place for those children.

Mr Drakes learned that it was planned that the two children would be undertaking their SATs tests along with three other [REDACTED] known to suffer from [REDACTED] and described the plan as being like "putting five sticks of dynamite together in a room". Mr Drakes, therefore, volunteered to be in the room with the children with the aim of supporting them so that they could complete the SATS test and attend the School trip at the end of the week, but accepted that the way he went about this was entirely wrong.

After the test on 14 May Mr Drakes accepted that he had not reflected upon his own conduct during the SATs test, but his focus had been solely upon what had led to the staffs' behaviour at the School gates that led to the incident. As a result, he repeated the same behaviour of over-assisting the pupils later in the week when he was present for a subsequent SATs test.

There was no evidence to suggest that Mr Drakes was acting under duress. It was apparent to the panel that although Mr Drakes actions were dishonest, he had acted out of a misguided attempt to address the unfairness for the vulnerable pupils that he perceived had been created by the actions of year 6 staff. Mr Drakes admitted that his actions had, in fact, been unfair to the pupils in that they were deprived of their results.

There was no evidence of Mr Drakes having previously been subject to any disciplinary hearings or warnings. To the contrary, Mr Drakes had a previously exemplary history, having demonstrated exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector.

Mr Drakes explained his motivation for joining the teaching profession. He had originally attended a grammar school and was transferred to a local comprehensive school following sustained poor behaviour choices. There, he became acutely aware of the advantages he had benefitted from compared to his new peers. He described a particular headteacher having been appointed who “fizzed with energy” and showed the pupils the array of possibilities available to them. His experience of placements during his teaching degree and afterwards in Saudi Arabia led Mr Drakes to focus on working in schools where he could champion disadvantaged pupils, with a desire to allow those children to have “world class opportunities”.

Mr Drakes’ first executive headship role was at Broadford, a school that he described as having a reputation as the borough’s “worst primary school”, in a particularly deprived area of Greater London. He led the school from an Ofsted rating of “special measures” to “outstanding”. Under his leadership, the school became a model school for phonics; a Department for Education training hub; and won the Times Educational Supplement (TES) award as “School of the year”. He subsequently became the executive headteacher of Mead, improving it from an Ofsted grading of “requires improvement” and under threat of being academised to “good”. Mr Drakes was designated as a national leader of education supporting a number of schools both within Havering and beyond to improve their Ofsted grades. He successfully bid for over £230,000 of funding to deliver an improvement project across all primary settings in Havering with a particular focus on schools with the lowest outcomes for pupil premium eligible Early Years pupils. He created a leadership programme for aspiring leaders and took on various other roles in supporting schools, school improvement and developing future leaders, whilst at the same time overseeing the expansion of both Broadford and Mead.

After the incidents that are the subject of this hearing, Mr Drakes continued to have a positive impact on schools. He was first employed as an associate principal providing additional support to an underperforming academy, improving KS2 outcomes by over 20%. He was then deployed as an interim executive principal for two primary schools in Gloucestershire that had been downgraded by Ofsted to ‘requires improvement’.

From 2019, Mr Drakes worked in a leadership consultant role at Harris Federation, working with school leaders from nursery to Year 13. He reviewed their primary curriculum and delivered whole Federation training during Inset days to ensure teachers across London were confident with the expectations of the curriculum. He supported headteachers new to their post to ensure they had a successful start to their leadership career and led the implementation of a leadership curriculum. Mr Drakes worked across several schools to deliver a lockdown solution to deliver online teaching and was deployed in schools to provide additional leadership capacity for teams at risk of being overwhelmed by the demands of the Covid pandemic.



The panel saw numerous references attesting to Mr Drakes' exceptional contribution to teaching and education. Those referees were aware of the allegations against Mr Drakes.

The [REDACTED] of Hacton Primary School, at which Mr Drakes had been [REDACTED], described Mr Drakes (his [REDACTED] at the time) as having been deservedly promoted to headship at Broadford where he was a dynamic leader with high expectations of staff and every pupil. He referred to Mr Drakes as having been "quite instrumental in school improvement across the local authority", and that in his professional dealings with Mr Drakes he had shown both integrity and had been trustworthy.

Another reference from a [REDACTED] described having made visits to Broadford and Mead as a school improvement partner/ critical friend. He referred to Mr Drakes as being an "exceptional headteacher" and "one of the most effective professionals with whom [he'd] had the privilege and pleasure to work" and that during his tenure, Mr Drakes had "transformed outcomes for children from some of the most disadvantaged backgrounds in the country". He described that Mr Drakes "cares passionately for the children in his charge and is a champion for the needs of all, but in particular, for those whose early lives have been blighted by high levels of poverty, disadvantage and lack of opportunity" and that "prohibition would hurt most those who we have all given a commitment to serve, children."

The [REDACTED] of St Helen's Primary Academy with whom Mr Drakes had worked as a consultant stated that he had a "very clear professional code of conduct which he demonstrated daily during his time at St Helen's". She described Mr Drakes having supported with KS1 mock SATs week including the marking and data analysis and his approach was appropriate and followed the guidelines.

The [REDACTED] at the Academies Enterprise Trust described Mr Drakes' passion and commitment for improving the life chances and outcomes for pupils. She described that he supported KS1 colleagues including NQTs to understand the requirement of the assessment and testing process for KS1; that he had been knowledgeable and offered sound and accurate advice. She also described that he was responsible for overseeing and administering KS2 SATs in 2019 in two schools in Gloucestershire, ensuring there was external moderation over the week for certain tests. She was satisfied that Mr Drakes acted within the guidance of the framework and appropriately at all times. She was a moderator and said that it was obvious that staff had been trained in what it was permissible to say and do during the test and children were not over aided. She stated that she had no doubt about Mr Drakes' integrity and that he was a committed and knowledgeable school leader. She stated that if she was able to offer him a substantive position, she would do so without hesitation.

The [REDACTED] at one of the schools in Gloucestershire stated that Mr Drakes had “shown integrity in how he supported staff and expectations of how staff conduct themselves during SATs” and that he demonstrated a culture of vigilance and adhered to guidance.

An [REDACTED], who worked with Mr Drakes at Broadford attested to the changes that Mr Drakes brought about. She stated that Mr Drakes had been a pleasure to work with and an inspiring leader who had time for everyone and was willing to listen and learn. She worked with him on a speech and language project rolled out across several Havering Schools. She later learned that it had been rolled out by the Department for Education across every school free of charge. She stated that Mr Drakes had always demonstrated to her a high level of integrity, honesty and inspirational leadership and that her personal view was that it would be a tragedy if his teaching status was removed.

A former [REDACTED] at Broadford stated that apart from the events of 2018, she was not aware of any exam malpractice during her years there. She stated that Mr Drakes always went above and beyond for the school, pupils and staff.

A head of school who worked with Mr Drakes whilst he was employed by the Harris Federation described having been deployed together at a school with high levels of social deprivation and which was having a turbulent time. She stated that Mr Drakes was a positive and motivational presence in the school. He engaged with children who had been “deemed unteachable by the school”, putting in place structure and purpose to their learning and finding ways to get them to reconnect and re-engage. She stated that Mr Drakes struck her as a professional with great integrity, honesty and above all, passion for the role. She stated that he led by example and was happy to be on the front line. She stated that to allow him not to continue to work in the teaching profession would be a “huge loss”.

An [REDACTED] from the Harris Federation described Mr Drakes as a gifted teacher who brought a wealth of experience and knowledge from his “rich and varied career” in headship and executive headship.

A [REDACTED] from the Harris Federation worked with Mr Drakes at Broadford referred to his leadership as having quickly made an impact on all of the school. Staff were given high levels of professional development and pupils were challenged in ways that were engaging and were actively encouraged to become lifelong learners. She stated that other schools from across the country, and other countries would contact Mr Drakes directly to visit and gain an insight as to how to achieve such standards. She stated that throughout the time she had known Mr Drakes she had known him to be honest and truthful, and that she did not believe that “one mistake was a reflection of his character, nor was it reason enough to deprive children further by removing him from education given that he has worked so tirelessly to champion and provide opportunities for so many young, disadvantaged people”. She stated that she believed there are few people in the

profession who have as much determination as Mr Drakes to better the outcomes for those around him, both staff and disadvantaged pupils. The panel noted that this referee attended to give oral evidence in the Initial Hearing.

The [REDACTED] of the Harris Federation (a group of 50 academies based in and around London) stated that Mr Drakes had always been highly professional whilst working with them, very straightforward and always worked with the utmost integrity and honesty. He stated that Mr Drakes had a lot to offer primary education.

The former [REDACTED] and former [REDACTED] stated that he had first met Mr Drakes at a primary heads' conference where his contribution "picked him out as a thoughtful, dynamic leader willing to share practice", that he had visited Broadford and described the "enormous contagious energy" that Mr Drakes had. He described Mr Drakes as an outstanding school leader who had transformed primary schools in challenging circumstances and "generously helped" other schools in difficulty. He stated that he had "yet to meet a better primary headteacher or educator than Mr Drakes". The panel noted that this referee attended to give oral testimony at the Initial Hearing.

A former teacher at Broadford stated that Mr Drakes' door was always open and he always had time for everyone, he showed a consistent and positive mood, he lived and breathed everything he envisioned for the school and he constantly strived for better. He stated that if Mr Drakes was removed from teaching, the "loss would be vast".

The panel was conscious that the jeopardy of the threat of prohibition and its subsequent imposition at the Initial Hearing had been present for some considerable time, and that if a prohibition order was imposed now, it would appear to have a greater punitive effect since Mr Drakes would be unable to apply to return to the profession for at least another two years. It was apparent to the panel through its probing of Mr Drakes in oral evidence that during the period in which Mr Drakes has been awaiting the final outcome of this case he has developed considerable insight. This period from the Initial Hearing to the Second Hearing has been a very sobering time for Mr Drakes allowing him to deeply reflect upon his actions and his management style at the time. The panel considered that Mr Drakes is now only too well aware of the consequences of his actions on the pupils, his colleagues, himself and his family and therefore concluded that the risk of repetition was now negligible.

On a practical and demonstrable level, Mr Drakes was able to provide examples of the appropriate processes and procedures he had put in place during SATs testing subsequent to the events in question, as evidenced by some of the testimonial evidence above. This included ensuring that there was sufficient capacity to monitor testing, so that there was always additional resource available to address any issues that might arise, without individuals having to be removed from the supervision of the testing itself.

Putting aside processes and procedures described above and on a more personal level, the panel explored extensively with Mr Drakes his attitude and the issues that led to him engaging in such behaviour and what he would do differently in the future. Mr Drakes recognised that although he may have believed, at the time, that there were systems in place for others to challenge him, what he hadn't appreciated that those individuals had not felt able to, in fear of the consequences and because of the status he had acquired. Mr Drakes referred to his experience at the Harris Federation where mutual accountability had been far more embedded. He described that he had learned in the future to model scenarios and rehearse in those situations how staff should hold each other to account, exemplifying that staff should feel empowered to challenge him without fear of the consequences.

Mr Drakes also recognised that the circumstances leading to the proven misconduct meant that he had not "refreshed the culture" that he had been trying to engender within the School sufficiently to ensure children were at the forefront. He recognised that he had not taken staff along with him in decisions that he had made and referred to the need, in the future, to ensure that he refreshed his vision. This would involve sharing what he could with staff without breaching confidentiality to ensure staff understand the reasons for decisions that are taken.

During the Second Hearing, it became apparent that Mr Drakes had developed a heightened sense of his own fallibility. At the point of these incidents, his career had been one of uninterrupted success with national recognition and acclaim. Mr Drakes admitted he had developed a persona that may have made it difficult for others to challenge him. He now has a very real sense that he is someone who could make a mistake, and that just because he has a certain belief, that does not mean he is always right, or that others should share that belief. It was apparent to the panel that he had been humbled by what has happened and that he has learned to check his thinking with others, so that he will be much more explicit about the need to challenge him and each other.

Mr Drakes also accepted that in 2018, he had become too stretched in terms of the demands on his time and he had lost sight of what was happening in the schools he was leading. He thought at the time that it had been a good idea to become involved in unique opportunities that allowed him to generate income for the schools that he could not have achieved otherwise. Following questioning, the panel was content that Mr Drakes now recognises that in a future leadership position, he would have to refuse projects that do not have the children in his direct care as the priority. He referred to his experience of working with the chief executive officer at the Harris Federation, and appreciates now that saying "no" to an opportunity was not necessarily bad, and that he felt empowered to explain why a project would be inappropriate at the time, or to suggest alternatives of how he may have some involvement in the future. He stated that he had now seen it modelled of how to say "no" in an effective way.

Mr Drakes demonstrated significant remorse having seen the devastating impact his actions had on the colleagues who had become embroiled in his behaviour. Importantly, at the Second Hearing, Mr Drakes also demonstrated his understanding of the impact on pupils and his remorse for this. He explained that although he had tried to be fair to the pupils, his actions had not been fair to them and the possibility of demonstrating their achievements at the end of primary school was taken away as a result of his actions. He also expressed remorse for the whole school community who had worked so hard to build the school up, and his actions had seriously tarnished the reputation of the school, undoing all of their hard work.

In the circumstances of this case, the panel considered that the positive interest of retaining Mr Drakes in the profession outweighed the adverse public interest's considerations against it. This was particularly the case since the panel deemed that it was not necessary to protect pupils from repetition of wrongdoing in light of the insight that Mr Drakes has demonstrated. The panel was mindful that the misconduct found proven was very serious as it undermined the national testing programme and was a significant breach of Teachers' Standards. However, the panel had regard to the particular circumstances in this case, the mitigation present and the insight and remorse shown by Mr Drakes particularly in the Second Hearing had to be taken into account. Mr Drakes had been in an almost unique position to develop this insight and remorse in the period leading up to the Second Hearing, with full awareness of the severity of the consequences of prohibition. In that period, he has affirmed his dedication to the profession in supporting on a voluntary basis disadvantaged students with their UCAS statements and to mentor leaders in the profession who have been experiencing professional difficulties.

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. Having considered the mitigating factors that were present, the degree of insight exhibited and Mr Drakes' exceptional contribution to teaching and education, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

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

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

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

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

The panel has made a recommendation to the Secretary of State that Mr Drakes should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Mr Drakes “amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.”

The findings of misconduct are serious as they include a finding that on 2 occasions “Mr Drakes created, or helped to create, an environment in which important statutory assessments (SATs) were undertaken in a manner that was completely inappropriate” and that his conduct on these occasions was dishonest. The panel finds that “There was a cohort of pupils for whom their SATs results were annulled as a result of Mr Drakes’ actions. Their achievements could not be recognised in the way that they normally would and were not available for their progression into secondary school.”

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published

finding of unacceptable professional conduct and conduct 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 Mr Drakes, 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, “the panel did not consider that there was a continuing risk to the education or wellbeing of pupils.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Mr Drakes demonstrated significant remorse having seen the devastating impact his actions had on the colleagues who had become embroiled in his behaviour. Importantly, at the Second Hearing, Mr Drakes also demonstrated his understanding of the impact on pupils and his remorse for this. He explained that although he had tried to be fair to the pupils, his actions had not been fair to them and the possibility of demonstrating their achievements at the end of primary school was taken away as a result of his actions. He also expressed remorse for the whole school community who had worked so hard to build the school up, and his actions had seriously tarnished the reputation of the school, undoing all of their hard work.” I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that “public confidence in the profession could be seriously weakened if conduct such as that found proven against Mr Drakes was not treated with the utmost seriousness when regulating the conduct of the profession. Maintaining the integrity of the national testing process is fundamental in upholding public confidence in educational outcomes.” I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct and 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 Mr Drakes. The panel comment that “Mr Drakes had a previously exemplary history, having demonstrated

exceptionally high standards in both his personal and professional conduct and having contributed significantly to the education sector". The panel also notes that it "saw numerous references attesting to Mr Drakes' exceptional contribution to teaching and education. Those referees were aware of the allegations against Mr Drakes."

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

In this case, I have placed considerable weight on the panel's comments regarding insight and remorse. The panel commented that "Mr Drakes demonstrated significant remorse having seen the devastating impact his actions had on the colleagues who had become embroiled in his behaviour. Importantly, at the Second Hearing, Mr Drakes also demonstrated his understanding of the impact on pupils and his remorse for this."

I have also placed considerable weight on the finding of the panel that "In the circumstances of this case, the panel considered that the positive interest of retaining Mr Drakes in the profession outweighed the adverse public interest's considerations against it. This was particularly the case since the panel deemed that it was not necessary to protect pupils from repetition of wrongdoing in light of the insight that Mr Drakes has demonstrated. The panel was mindful that the misconduct found proven was very serious as it undermined the national testing programme and was a significant breach of Teachers' Standards. However, the panel had regard to the particular circumstances in this case, the mitigation present and the insight and remorse shown by Mr Drakes particularly in the Second Hearing had to be taken into account."

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

A handwritten signature in black ink, appearing to read 'D Oatley', with a large, sweeping flourish at the end.

**Decision maker: David Oatley**

**Date: 7 August 2023**

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



