



Teaching
Regulation
Agency

Mrs Claudia Aquilina: Professional conduct panel outcome

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

September 2023

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

Teacher: Mrs Claudia Aquilina
TRA reference: 19453
Date of determination: 20 September 2023
Former employer: St Thomas' Catholic Primary School, Sevenoaks

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 18 to 20 September 2023 by way of a virtual hearing to consider the case of Mrs Claudia Aquilina.

The panel members were Mr Peter Ward (lay panellist – in the chair), Mrs Victoria Jackson (teacher panellist) and Mrs Georgina Bean (teacher panellist).

The legal adviser to the panel was Ms Rebecca Hughes of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Amalea Bourne of Browne Jacobson LLP solicitors for days one and two of the hearing and Ms Matilda Heselton of Browne Jacobson LLP solicitors on the third day of the hearing.

Mrs Aquilina was present and was represented by Mr Andrew Faux of TRP Limited trading as The Reflective Practice.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 20 June 2023 and the application to amend the allegations, as detailed below, which was submitted on the second day of the hearing. The application to amend the allegations was granted and the amended allegations are as set out below.

It was alleged that Mrs Aquilina was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as headteacher at St Thomas' Primary School:

1. Between October 2015 and June 2020, she shared confidential information and/or material connected to the School with Individual A, specifically:
 - a) personal addresses and/or email addresses and/or telephone numbers;
 - b) regarding staffing and/or governance;
 - c) photographs of pupils;
 - d) achievement data;
 - e) regarding involvement with social services and/or the local authority;
 - f) regarding concerns and/or complaints; and
 - g) an email from a firm of solicitors with a footer which stated 'information in this e-mail and any attachments are private and confidential and intended for the addressee only... it may not be disclosed to or used by anyone other than the intended recipient. You must not disclose its contents or send it to anybody else.' Attached to the email and forwarded to individual A was a family court order.

Mrs Aquilina admitted allegations 1(a), 1(b), 1(e), 1(f) and 1(g) and admitted allegations 1(c) and 1(d) in part, as set out in the statement of agreed and disputed facts signed by Mrs Aquilina on 18 August 2023. Mrs Aquilina did not admit that her behaviour amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Preliminary applications

There were the following preliminary applications:

Evidence from Abroad

As Mrs Aquilina and [REDACTED], Individual A, were located in and giving evidence from Malta, the panel was presented with an email chain between Ms Amalea Bourne and the Foreign, Commonwealth and Development Office ('FCDO'), whereby the FCDO

confirmed the Government of Malta had replied to the FCDO and they had no objection to the taking of evidence by a Maltese witness in Malta for the upcoming hearing and that the FCDO had no diplomatic objection on this occasion.

The legal adviser drew the panel's attention to the fact that, in line with authorities and guidance established in UK judicial forms, the teacher and/or a witness may be permitted to give oral evidence from abroad, subject to the appropriate consent being obtained.

The panel therefore considered that, as Mrs Aquilina and Individual A were permitted to give evidence from Malta as they had the appropriate permissions, it was appropriate for them to give evidence remotely from Malta, therefore the hearing continued by hearing their evidence from Malta.

Application to admit additional documents

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

The presenting officer's documents were a witness statement for Witness A and an un-redacted copy of the email from Individual B of 19 August 2023.

The teacher's representative applied to admit an un-redacted copy of the court order referred to in allegation (1)(g).

The documents subject to the application had not been served in accordance with the requirements of paragraph 5.37 of the Teacher misconduct: Disciplinary Procedures for the teaching profession May 2020 ('the 2020 Procedures'). Therefore, the panel was required to decide whether the documents should be admitted under paragraph 5.34 of the 2020 Procedures.

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

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

Mr Faux also commented that he believed it would assist the panel in its deliberations if it had un-redacted copies of the emails. The presenting officer had no objection to this. The documents were not added to the bundle, as the panel concluded that as there was already a statement of agreed and disputed fact agreeing the contents of the emails, and as some information was shown in these documents, the panel found that it did not need these emails in order to come to its finding and, felt it could understand the nature of the information from the redacted versions. Accordingly, the documents were not added to the bundle.

Application for part of the hearing to be heard in private

The panel considered an application from the teacher's representative made on the first day that part of the hearing relating to medical information should be heard in private should the need arise.

The panel heard submissions from the presenting officer on the application before reaching its decision. The presenting officer did not have an objection to the application.

The panel considered that the areas covered in the application legitimately related to aspects of Mrs Aquilina's private life and there was no contrary public interest in those aspects being discussed in public. The hearing was still being held in public and these were discrete and limited areas which would not undermine the public's ability to otherwise understand the case. The panel therefore granted the application.

No part of the hearing was heard in private.

Application to amend the allegations

The presenting officer made an application on the second day of the hearing to amend the allegations as set out above.

The panel was advised that it had the power to amend allegations in accordance with paragraph 5.83 of the 2020 Procedures.

The panel considered that the proposed amendments would not change the nature and scope of the allegations in that the allegations would, as amended, still be within the same parameters. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations.

The teacher's representative did not have an objection to the application and believed the application was necessary. The teacher's representative agreed to the amendment but suggested adding the following words to the end of the amendment made by the presenting officer: "*including directions to the school*".

The legal adviser drew the panel's attention to the case of *Dr Bashir Ahmedsowida v General Medical Council* [2021] EWHC 3466 (Admin), 2021 WL 06064095 which held that the lateness of amendments did not necessarily mean they were unjust, as acknowledged in the previous case of *Professional Standards Authority v Health and Care Professions Council and Doree* [2017] EWCA Civ 319 at [56].

Accordingly, the panel granted this application and considered the presented officer's amended allegations, which are set out above.

Summary of evidence

Documents

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

- Section 1: Chronology – page 11
- Section 2: Notice of proceedings, Response and Statement of Agreed and Disputed Facts – pages 13 to 35
- Section 3: Teaching Regulation Agency witness statements – pages 38 to 445
- Section 4: Teaching Regulation Agency documents – pages 447 to 793
- Section 5: Teacher documents – pages 795 to 935.

In addition, the panel agreed to accept the following:

- Witness statement of Witness A
- An un-redacted copy of the email from Individual B of 19 August 2023
- An un-redacted copy of the Court Order.

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, called on behalf of the TRA.

The panel heard oral evidence from the following witnesses called by the teacher's representative, in addition to Mrs Aquilina:

- Individual A – [REDACTED]
- Witness B – [REDACTED] of St Thomas' Primary School ('the School').

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mrs Aquilina was employed as a headteacher at the School between 1 September 2015 and 12 October 2020.

In June 2020, a data subject access request ('DSAR') was received by the School from a parent. Searches took place between July and August 2020. Email exchanges between Mrs Aquilina and Individual A, [REDACTED], were returned, which included the sharing of sensitive personal information about the parent and pupil concerned.

In August 2020, a second DSAR was received from the Archdiocese of Southwark as a result of a DSAR made by Individual A. The searches highlighted further email exchanges between Mrs Aquilina and Individual A where sensitive personal information about [REDACTED] had been shared.

On the 28 August 2020, Mrs Aquilina was suspended from the School.

A disciplinary hearing was held on 6 October 2020 and Mrs Aquilina ceased her employment at the School on 13 October 2020.

An appeal hearing was held on 9 November 2020.

Findings of fact

The findings of fact are as follows:

The panel considered the particulars of the allegations against you in turn and gave the following reasons for finding each of these proved:

1. Between October 2015 and June 2020, you shared confidential information and/or material connected to the School with Individual A, specifically

The panel noted that Mrs Aquilina admitted allegations 1(a), 1(b), 1(e), 1(f) and 1(g) in full and admitted allegations 1(c) and 1(d) in part, as set in the statement of agreed and disputed facts signed by Mrs Aquilina on 18 August 2023, and in her oral evidence. Mrs Aquilina did not admit that her behaviour amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Mrs Aquilina admitted in the statement of agreed and disputed facts that between October 2015 and June 2020, she shared confidential information and/or material connected to the School with Individual A. She also accepted that some of the

information that she sent to Individual A, Individual A would not have been privy to and would not have had access to otherwise.

a) personal addresses and/or email addresses and/or telephone numbers;

The panel noted that Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and oral evidence that she shared personal addresses, email addresses and telephone numbers with Individual A, which the panel found was material connected to the School. The panel considered the 45 redacted emails contained within the bundle and found that some of these emails, even though they were redacted, did contain personal addresses, email addresses and telephone numbers, which were material connected to the School and, therefore, this part of the allegation was proven, given that no one disputed the content and from a review of the content in the emails that were not redacted.

The panel then went on to consider whether this was confidential information and noted that Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and oral evidence that some of this information Individual A would not have been privy to and would not have had access to otherwise. The panel found that on the balance of probabilities, some of this information was confidential information. The panel considered the 45 redacted emails contained within the bundle and found that some of these emails did contain personal addresses, email addresses and telephone numbers, which they found contained confidential information; therefore, this part of the allegation was proven.

b) regarding staffing and/or governance;

The panel noted that Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and in oral evidence that she shared information regarding staffing and governance with Individual A, which the panel found was material connected to the School. The panel considered the 8 emails referred to in the agreed and disputed facts, which included an email forwarding the headteacher's report dated 18 November 2015, an email forwarding letters addressing staff changes dated 6 June 2017, emails sent forwarding correspondence from a volunteer relating to staff dated 17 January 2018, correspondence from the Chair of Governors regarding the change of role, the forwarding of correspondence from the School volunteer regarding the resignation form post dated 12 November 2019 and forwarding a letter regarding staff changes to Year 2 dated 8 January 2020 and found that Mrs Aquilina had shared staffing and governance material connected to the School with Individual A; therefore, this part of the allegation was proven.

The panel noted that Mrs Aquilina did not deny in the statement of agreed and disputed facts that some of this information would not have been in the public domain. The panel considered the 8 emails referred to in the agreed and disputed facts and above, and in

particular, the panel felt that the forwarding of the correspondence from the Chair of Governors regarding the change of role dated 26 April 2018 and 30 April 2018 contained confidential information regarding staff and governance.

The panel found that on the balance of probabilities, these emails did contain confidential information and that Mrs Aquilina had shared this confidential information with Individual A; therefore, this part of the allegation was proven.

c) photographs of pupils;

The panel considered the email of 18 December 2015 and the photographs of pupils which were contained within the bundle which Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and in oral evidence sharing with Individual A. As the photographs were of children of the School, and this was not in dispute, the panel found this was material connected to the School; therefore, this part of the allegation was proven.

The panel then went on to consider whether the photographs of pupils were confidential information. The panel noted that Mrs Aquilina, in her evidence, did not admit that the data was confidential. In respect of the photographs of the group of children, Mrs Aquilina submitted that these were images of a Church Carol Service where consent had been given and which were due to be published on the School website with appropriate consents. In Mrs Aquilina's witness statement, she admitted that there were three occasions when photographs of pupils were shared.

The first was a record of the Carol Service performed by KS2 pupils in Individual A's Parish Church on 17 December 2015. Mrs Aquilina explained that all pupils that are recognisable had parental permission for their photos to be taken and shared through the School's written consent system. The panel considered these photographs at page 621 to 626 of the bundle and felt that, on the balance of probabilities, the appropriate consent would have been obtained and that therefore these photos were not confidential. The panel concluded that any parent at that service would have taken similar photos and that the parents would likely have been sent a form at the beginning of the year to provide consent for a multitude of permissions for photographs to be taken of the children.

The panel then considered the email chain in the bundle at pages 654 and 655 regarding the complaint made to the Education Funding Agency about the new play arrangements in the School in February 2018 and the photos shared with Individual A in this email chain. The panel noted that in the email chain it stated, "*photographs of playtime that you have on your website (attached)*", and that therefore the photographs shared in the email chain had been obtained from the School's website. This was supported by Mrs Aquilina's evidence and the panel was provided with no evidence to the contrary; therefore, the panel found that on the balance of probabilities, the photographs were from the School

website, that this did not amount to confidential information and, Mrs Aquilina had not shared confidential information, specifically photographs of pupils, with Individual A.

d) achievement data;

The panel noted that Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and in oral evidence that she shared achievement data with Individual A, in the headteacher report to the governors on 18 November 2015, which she shared with Individual A for feedback. The panel found that the achievement data was material connected to the School, as it was data regarding the pupils at the School; therefore, this part of the allegation was proven.

The panel then went on to consider whether the achievement data was confidential information. The panel noted that Mrs Aquilina did not admit that the data was confidential as she stated that it was generic data due to be published on the School website, and this was confirmed in the statement of agreed and disputed facts, her witness statement and in oral evidence.

The panel then considered the achievement data only and reviewed the headteacher's report to the governors on 18 November 2015. The panel was convinced by Mrs Aquilina's evidence that this data would be published in any event but notwithstanding this, the panel did not find the achievement data confidential. The panel noted that the achievement data did not identify any of the individuals by name or any members of staff, and therefore, this part of the allegation was not proven.

e) regarding involvement with social services and/or the local authority;

The panel noted that Mrs Aquilina admitted in the statement of agreed and disputed facts, her witness statement and oral evidence that she shared information and material regarding involvement with social services and the local authority with Individual A, which the panel found was material connected to the School. The panel reviewed the 21 emails referred to in Mrs Aquilina's allegation and the 6 emails referred to in the statement of agreed and disputed facts, some of which related to discussions about a peer on peer incident in a class in October 2016. The panel found that the information was information involving social services and local authority and that this was material connected to the School; therefore, this part of the allegation was proven.

The panel then went on to consider whether the information regarding involvement with social services and the local authority was confidential information. The panel noted that Mrs Aquilina did not deny in the statement of agreed and disputed facts, or in her oral evidence, that some of this information would not have been in the public domain. The panel then considered whether the social services and local authority information was confidential information and they found it was very much confidential information, as this information would not have otherwise been available to Individual A and would not have been in the public domain; therefore, this part of the allegation was proven.

f) regarding concerns and/or complaints and

The panel noted that Mrs Aquilina admitted in the statement of the agreed and disputed facts, her witness statement and oral evidence that she admits that she shared information regarding concerns and complaints when sending emails with Individual A. The panel reviewed the 21 emails referred to in this allegation which related to discussions about a peer on peer incident in a class in October 2016. The panel considered the 28 emails contained within the bundle which were outlined in the statement of the agreed and disputed fact, which included complaints made by the parents and two emails sent on 7 February and 9 February 2017 made in connection with a referral to OFSTED, who in turn passed this to the LADO, and felt that this information was material connected to the School, and contained both concerns and complaints and, therefore, this part of the allegation was proven.

The panel then went on to consider whether the information regarding concerns and complaints was confidential information. The panel noted that Mrs Aquilina did not deny in the statement of agreed and disputed facts, or in her oral evidence, that some of this information would not have been in the public domain. The panel found some of this information was confidential information, as this information would not have otherwise been available to Individual A and would not have been in the public domain; therefore, this part of the allegation was proven.

g) an email from a firm of solicitors with a footer which stated ‘information in this e-mail and any attachments are private and confidential and intended for the addressee only... it may not be disclosed to or used by anyone other than the intended recipient. You must not disclose its contents or send it to anybody else.’ Attached to the email and forwarded to individual A was a family court order.

The panel noted that in the statement of the agreed and disputed facts, her witness statement and in oral evidence Mrs Aquilina admitted that she shared confidential information and material connected to the School with Individual A.

The panel considered the email from a firm of solicitors and the un-redacted court order it was provided with on the first day of the hearing and concluded that it was clear the email had been sent, and it was clear that this contained confidential information. The panel found that a court order for family proceedings is confidential information, and this was supported by the footer contained within the email that the email and any attachments were private and confidential. The panel also considered that the email with the court order attached was material connected with the School.

It was accepted by the parties that Mrs Aquilina was employed as headteacher at the School and [REDACTED], Individual A, was the [REDACTED], and [REDCATED] and therefore Individual A was not an employee of the trust.

The panel considered the redacted copies of the emails between Mrs Aquilina and Individual A contained in the bundle.

The panel noted Mrs Aquilina's witness statement and her oral evidence where she gave explanations for sending each email and had stated that Individual A was connected to the School and she did not consider him to be a third party.

Mrs Aquilina stated that 21 of the 61 emails shared with Individual A related to one very difficult situation concerning peer-on-peer abuse where Individual A was involved in providing support to the pupil and parents. She stated that several of the emails involved her own career and issues about herself and that in sharing them she was seeking advice, pastoral support and guidance for the benefit of the School.

The panel heard oral evidence from and considered the witness statement of Witness B who stated that Individual A was treated as a member of staff because of his teaching and pastoral role. Witness B was part of the governing body that appointed Individual A to support the role of [REDACTED] at St Thomas' School [REDACTED].

The panel heard oral evidence from and considered the witness statements of Witness A and Individual A.

The panel found allegations 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), and 1(g) proven. The panel, however, did not find that in respect of allegations 1(c) and 1(d) confidential information was shared with Individual A.

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

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

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - showing tolerance of and respect for the rights of others.

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel considered paragraph 21 of the Advice and in particular, that unacceptable professional conduct is misconduct of a serious nature.

The panel found that there was misconduct, which was supported and accepted by Mrs Aquilina. However, the panel was not satisfied that this amounted to serious misconduct for the following reasons:

Mrs Aquilina had shared this information with Individual A in order to seek his advice on the matters contained within some of the emails. There has been no sharing of information with any other party, and her intention in sharing this information was in order to do what was best for the School and the pupils. Any harm to a pupil or parent was potential rather than actual.

Individual A had a pastoral role within the School and provided Mrs Aquilina, the pupils and the parents with support, as part of his pastoral role.

The panel found that if the information had been shared with anyone other than Individual A then this may have resulted in a finding of serious misconduct and therefore, unacceptable professional conduct.

The panel was satisfied that that conduct of Mrs Aquilina in respect of allegation 1 amounted to misconduct but had not found that this was of a serious nature which fell significantly short of the standards expected of the teaching profession.

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

The panel found that none of these offences were relevant.

Accordingly, the panel was satisfied that Mrs Aquilina was not guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community.

The panel considered that it was a basic expectation and essential requirement that teachers do not share confidential information and/or materials connected to the school.

Mrs Aquilina had worked as a headteacher at the School for over 5 years, and was an experienced teacher who would have undergone relevant training, and therefore, she should have been aware that her actions had been unprofessional and wrong.

The panel considered it clear that the public would not expect or tolerate a teacher sharing confidential information about pupils and parents and/or sharing material connected to the school with another individual.

The panel considered it would be likely that public trust in the teaching profession would be weakened if members of the public were aware of the proven facts.

The panel also took account of the uniquely influential role that teachers can hold in pupils' lives, particularly head teachers, and the fact that pupils and parents must be able to view teachers as role models in the way that they behave. The panel considered that if pupils and parents were aware of Mrs Aquilina's actions, it would set a bad example and suggest that it is acceptable to share confidential information.

The findings of misconduct, and the conduct displayed would be likely to have a negative impact on Mrs Aquilina's status as a teacher, potentially damaging the public perception.

The panel, therefore found that Mrs Aquilina's actions constituted conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict, which here they were.

The panel decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon her abilities as an educator and/or she is able to make a valuable contribution to the profession.

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 Mrs Aquilina. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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 Mrs Aquilina. 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, that which were relevant in this case were:

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

The panel found there had been a departure from the personal and professional conduct elements of the Teachers' Standards but not a serious departure.

There was no evidence that Mrs Aquilina's actions were not deliberate.

There was no evidence to suggest that Mrs Aquilina was acting under extreme duress.

The panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel considered that the following mitigating factors are present in this case:

The panel noted Mrs Aquilina's witness statement where she stated that the only staff training she had received in data protection was in January 2020. She stated that this was a generic online module about GDPR rules and gave no useful practical examples relevant to schools. She submitted that she had no special training.

In her witness statement, Mrs Aquilina summarised her response to each allegation. She stated that she regrets that personal contact details and addresses were shared in response to allegation 1(a).

Mrs Aquilina accepted that at some points she lacked confidence and was seeking reassurance and a second opinion from a person whose judgement she trusted and relied on. She stated that, looking back, she can see that she did not usually have express consent from the sender to share the information that she shared, and it was not strictly necessary to do so in cases where she was seeking general advice on how to respond. She submitted that she could and should have been more discrete and at most

shared only hypothetical or anonymised points for advice, and that she can now see she overshared personal information.

Mrs Aquilina submitted that she honestly believed she was allowed to share these emails to seek advice, pastoral support and guidance for the benefit of the School under the privacy notice for pupils.

The panel noted that Mrs Aquilina sincerely apologised and accepted responsibility in her witness statements and that she acknowledged that data must be carefully and sensitively handled. In particular, the panel considered the following comments in Mrs Aquilina's witness statement:

- *"I accept that the judge took an objective view of the situation and applied the law correctly. Therefore, I have had to reflect very long and hard on his findings. I accept that at some points I lacked confidence and was seeking reassurance and a second opinion from a person whose judgement I trusted and relied on"*
- *"I have learnt an important and costly lesson regarding privacy and data security from this situation and will do all I can to make amends. I sincerely apologise to the panel for my mistakes. I accept full responsibility for my actions and acknowledge that data must be carefully and sensitively handled".*

The panel noted character evidence submitted on behalf of Mrs Aquilina. In particular the panel noted the following comments;

- Individual C, [REDACTED] of Mrs Aquilina;
 - *"Claudia is a very diligent educator"*
 - *"she has an excellent relationship both with the children in her care, her teaching team as well as with the parents of the children in her sector"*
 - *" Claudia has managed to establish a very good relationship with her colleagues whom she now leads"*
 - *"The parents are happy with her work as is the school board"*
 - *"Claudia has very good leadership skills"*
- Witness B, [REDACTED] at the School during the time Mrs Aquilina was headteacher;
 - *"she has always been a consummate professional, as well as being a tremendously caring pastoral leader"*

- *“she went above and beyond to do the best for everyone at the school, and parents welcomed this”*
- *“our teaching staff stayed in the school because she supported them well and gave them opportunities to grow”*
- *“she was always a good ambassador for KCSP”*
- *“committed and caring headteacher”*

No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mrs Aquilina contributed significantly to the education sector.

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 found that the likelihood of repetition was low, given the genuine remorse Mrs Aquilina has demonstrated and her recognition of the seriousness of the errors she had made.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession. That publication would not compromise the achievement of the relevant objectives set out in the Advice.

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 some elements of the allegations proven and found that those proven facts amount to conduct that may bring the profession into disrepute.

However, the panel has found some elements of the allegations not proven. I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of 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 Mrs Claudia Aquilina is in breach of the following standards:

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

The panel found that, while there had been a departure from the personal and professional conduct elements of the Teachers' Standards, it was not a serious departure.

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 conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not

prohibiting Mrs Aquilina, 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/or safeguard pupils. The panel has observed, “Mrs Aquilina had shared this information with Individual A in order to seek his advice on the matters contained within some of the emails. There has been no sharing of information with any other party, and her intention in sharing this information was in order to do what was best for the School and the pupils. Any harm to a pupil or parent was potential rather than actual.” The panel go on to state that the risk of a repetition of the misconduct found against Mrs Aquilina is low.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “The panel noted that Mrs Aquilina sincerely apologised and accepted responsibility in her witness statements and that she acknowledged that data must be carefully and sensitively handled.” The panel also note that “She (Mrs Aquilina) submitted that she could and should have been more discrete and at most shared only hypothetical or anonymised points for advice, and that she can now see she overshared personal information.” I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel considered it clear that the public would not expect or tolerate a teacher sharing confidential information about pupils and parents and/or sharing material connected to the school with another individual.” The panel go on to state that, “The panel considered it would be likely that public trust in the teaching profession would be weakened if members of the public were aware of the proven facts.” I am also mindful that teachers must maintain high standards of ethics and behaviour and that misconduct as found in this case could suggest to parents and pupils that it is acceptable to share personal information.

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 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.

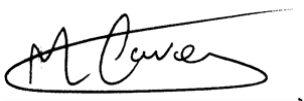
I have also considered the impact of a prohibition order on Mrs Aquilina herself. The panel note that, “No evidence was submitted which demonstrates exceptionally high

standards in both personal and professional conduct or that Mrs Aquilina contributed significantly to the education sector.” However, the panel also state that, “The panel decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon her abilities as an educator and/or she is able to make a valuable contribution to the profession.” I also note that character statements were submitted to the panel attesting to Mrs Aquilina’s commitment to her staff and pupils.

A prohibition order would prevent Mrs Aquilina from teaching. A prohibition order would also clearly deprive the public of her 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 concerning the degree of remorse and insight demonstrated by Mrs Aquilina which indicates that the risk of repetition of the misconduct found is low. I have also noted the panel’s assessment that “...the nature and severity of the behaviour were at the less serious end of the possible spectrum”.

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 'M. Cavey', enclosed within a thin black rectangular border.

Decision maker: Marc Cavey

Date: 22 September 2023

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