



Teaching
Regulation
Agency

Mr Kaleem Duncan: Professional conduct panel outcome

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

October 2023

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

Teacher:	Mr Kaleem Duncan
Teacher ref number:	9900737
Teacher date of birth:	25 April 1971
TRA reference:	18974
Date of determination:	10 October 2023
Former employer:	Ark Walworth Academy, London

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 9 to 10 October 2023 by way of a virtual hearing, to consider the case of Mr Kaleem Duncan.

The panel members were Mr Paul Millett (lay panellist – in the chair), Mr Gamel Byles (teacher panellist) and Mrs Emma Hendry (lay panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

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

Mr Duncan was not present and was not represented.

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 5 July 2023.

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

1. Whilst applying for the role of Science Teacher at Ark Walworth Academy and/or following his appointment, he provided false and/or misleading information, and/or failed to disclose relevant information, namely;
 - a. Claimed to have the following qualifications which he did not in fact hold and/or failed to evidence:
 - i. QTS Certificate
 - ii. Degree Certificate
 - iii. Teaching Qualifications
 - b. Held himself out as holding QTS when this was not the case;
 - c. Failed to provide references upon request;
 - d. Failed to disclose that he had worked at:
 - i. Bethnal Green Academy (now Mulberry Academy) 2000-2015
 - ii. Ark Elvin Academy 2015-2016
 - e. Stated that he had a career break due to illness in 2015-2016 when in fact he had worked at Ark Elvin Academy;
 - f. Failed to disclose that his employment at Bethnal Green Academy (now Mulberry Academy) ended when he was dismissed for gross misconduct.
2. His conduct as may be found proven at 1 above lacked integrity and/or was dishonest in that he:
 - a. Misrepresented himself to gain and/or retain employment as a qualified teacher;
 - b. Sought to conceal a disciplinary incident in order to obtain and/or retain employment.

Preliminary applications

The panel noted that since the date of the referral to the TRA in this case, new ‘Teacher misconduct: Disciplinary procedures for the teaching profession’ were published in May 2020 (the ‘May 2020 Procedures’). The panel understands that the earlier provisions contained within the April 2018 Procedures (the ‘April 2018 Procedures’) apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Application to proceed in the absence of the teacher

Mr Duncan was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Duncan.

The panel was provided with a bundle of documents relevant to the presenting officer’s application to proceed in the absence, which demonstrated extensive attempts by the TRA to contact Mr Duncan. This included:

- Trace reports undertaken on 16 February 2021 and June 2022.
- Attempts to contact Mr Duncan by post at various address, including those identified by the trace report, those included in the referral form and those provided by another school where Mr Duncan was said to have worked between June 2020 and August 2021.
- Attempts to contact Mr Duncan by telephone.
- Attempts to contact Mr Duncan by email.

The attempts to contact Mr Duncan were unsuccessful: letters were returned marked as “not known at this address”, “not called for” and “undelivered”; telephone calls were not answered; and emails were not responded to. Mr Duncan did not engage with the TRA at all.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Duncan in accordance with the April 2018 Procedures. The panel was also satisfied that the TRA

had done all it reasonably could to notify Mr Duncan of the professional conduct panel hearing.

The panel concluded that Mr Duncan's absence was voluntary and that he was or ought to be aware that the matter would proceed in his absence.

The panel noted that Mr Duncan had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. The panel was aware that a hearing had previously been listed for November 2022 which was postponed by the TRA.

There was no medical evidence before the panel that Mr Duncan was unfit to attend the hearing.

The panel considered that it was in the public interest for the hearing to take place, particularly given the time that had already elapsed between the alleged conduct that gave rise to the allegations against Mr Duncan and the professional conduct panel hearing.

Finally, the panel considered the effect on the TRA's three witnesses of a further delay to these proceedings.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Duncan was neither present nor represented.

Summary of evidence

Documents

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

- Section 1: Notice of proceedings and response – pages 8 to 19
- Section 2: TRA witness statements – pages 21 to 68
- Section 3: TRA documents – pages 70 to 292
- Section 4: Teacher documents – none provided

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing.

Witnesses

The panel heard oral evidence from the following witnesses called by the TRA:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 16 May 2019, Mr Duncan submitted an application for the position of Teacher of Physics at Ark Walworth Academy ('the School'). He applied via the Times Educational Supplement ("TES").

Mr Duncan's application form contained details of three previous positions:

- Science Teacher at [REDACTED] from September 2018.
- Science Teacher at [REDACTED] from September 2017 to July 2018.
- Science Teacher at [REDACTED] from September 2016 to July 2017.

The application form also contained various questions and declarations. Those pertinent to this matter are as follows:

- On the first page of the application form, Mr Duncan included a Department of Education number for himself; answered "yes" to indicate that he had QTS; and answered "*B. Ed at RTP (London, GB) 2000-2003*" in respect of his teacher training.
- In response to a question about whether there were gaps in his employment history, Mr Duncan wrote: "*Yes – From Summer 2015 to summer 2016*".
- In the education section there was a space to insert details of Mr Duncan's higher education qualifications, however none were provided. The application form reads "*Higher education, none provided*".
- In the referees section Mr Duncan gave three referees, one from [REDACTED], one from [REDACTED] and one from [REDACTED], an agency.

- In the declaration section there was a question about whether Mr Duncan had been subject to any disciplinary action in his current or previous positions, or had any allegations made against him. This question was marked as “*Not answered*”.

[REDACTED], and [REDACTED], interviewed Mr Duncan on 20 May 2019.

[REDACTED] told the panel that, during the interview, [REDACTED] asked Mr Duncan whether he had been subject to any previous disciplinary action and he confirmed that he had not.

[REDACTED] was also mindful of the gaps in Mr Duncan’s employment history. In [REDACTED] oral evidence, [REDACTED] told the panel that the School’s application form requires job applicants to set out their entire employment history. [REDACTED] said that some applicants find this cumbersome, especially as they may not even be selected for interview. Therefore, whilst it is not good practice, some applicants do not include their employment history on their application forms.

Mr Duncan applied for the role via the TES, which [REDACTED] said was an easier application form to complete as the TES stores an applicant’s employment history which can be easily transported into different application forms.

[REDACTED] made a verbal and conditional offer of employment to Mr Duncan for the role of Teacher of Science at the end of the interview on a one year fixed term contract. [REDACTED] handwrote on his application form: “*Appointed 1 yr fixed term. Subject to completed gaps in application & references*”. [REDACTED] was of the view that Mr Duncan had been employed prior to 2015 and that the gaps in his employment history would need to be filled in accordance with safer recruitment practices.

On 6 June 2019 [REDACTED] ([REDACTED]), sent Mr Duncan an email requesting information about the gaps in his employment and educational history and further information about his referees. Mr Duncan replied on 11 June 2019. He referred to a gap in his employment history between Summer 2015 and Summer 2016 as “*time out to recover from [REDACTED] and career break*” and stated that he had worked at [REDACTED] between 2000 and 2015. He also stated: “*Degree – Distance learning RTP at University of Delaware, USA (2003)*”.

On 11 and 28 June 2019, [REDACTED] emailed Mr Duncan again and requested, amongst other things, his QTS and qualification certificates.

On 4 and 17 July 2019, [REDACTED] emailed Mr Duncan chasing his employment paperwork. Mr Duncan replied on 17 July 2019 to confirm that he would come in on Monday 22 or Tuesday 23 July 2019 to provide the documentation. [REDACTED] replied to confirm [REDACTED] availability, but Mr Duncan did not reply, nor did he provide the documentation.

[REDACTED] emailed Mr Duncan again on 22 July 2019 expressing concern and reminding Mr Duncan that the pre-employment checks were a condition of his employment at the school. Mr Duncan provided his passport and proof of address on 25 July 2019 but did not provide his qualification or QTS certificates.

On 29 August 2019 [REDACTED] emailed Mr Duncan, having first attempted to contact him via telephone, in respect of his QTS. [REDACTED] email stated: *"I have looked at the TRA register and it does not contain your details of your QTS or Induction. I also need copies of your degree and QTS. Please could you send me your QTS certificate urgently, as well as confirm that you have your degree and teaching qualification. If possible, please could you confirm why the TRA would not have a record of your QTS and Induction information."* [REDACTED] followed up on 30 August 2019 to impress upon Mr Duncan the urgency of [REDACTED] request.

[REDACTED] met with Mr Duncan on 3 September 2019 to conduct a risk assessment as Mr Duncan's recruitment checks had not been completed. During this meeting, [REDACTED] asked Mr Duncan about his qualifications and QTS, and why his QTS did not appear on his TRA profile. Mr Duncan told [REDACTED] that he had completed his teacher training at [REDACTED] and his degree was through distance learning in the USA. At this point, [REDACTED] and [REDACTED] assumed that Mr Duncan had not yet gone through the process of getting his overseas qualification recognised with the TRA. They were prepared to support him with this process.

It transpired that Mr Duncan was employed via employment agencies at [REDACTED] and [REDACTED], which meant that the School were required to obtain references from the agency, Academics, as opposed to the Schools. The agency confirmed he worked at [REDACTED] from 11 January 2018 to 27 July 2018 and at [REDACTED] from 1 September 2018 to 31 August 2019, and that there were no reports of any safeguarding issues during his placements with those schools.

It also transpired that the [REDACTED] was now known as the [REDACTED]. The School requested a reference from the [REDACTED] on 9 September 2019. On 13 September 2019, the [REDACTED] requested that the School ask Mr Duncan to contact them about his reference prior to them releasing it to the School.

In the meantime, [REDACTED] was continuing to follow up with Mr Duncan regarding his QTS and references; [REDACTED] emailed him on 5, 9, 13 and 19 September 2019.

On 19 September 2019 [REDACTED] and a member of the [REDACTED], and [REDACTED] met with Mr Duncan. Mr Duncan told [REDACTED] that his qualification certificates were in a loft in a previous house which he could only access at weekends.

[REDACTED] was also concerned that the [REDACTED] did not wish to give a reference until they had spoken to Mr Duncan. [REDACTED] asked Mr Duncan if there was

anything he needed to declare and he said there was not and that he could not understand why they needed to speak to him in the first instance. [REDACTED] asked Mr Duncan to call the [REDACTED] in front of [REDACTED], but the call went to voicemail. [REDACTED] asked Mr Duncan to see [REDACTED] again at the end of the school day so that they could try to contact the [REDACTED] again. Mr Duncan did come back at the end of the school day but left without speaking with [REDACTED] when he saw [REDACTED] was engaged on a call.

[REDACTED] attempted to follow up with Mr Duncan by telephone, but he did not answer his phone. When he eventually called [REDACTED] back, he said that his [REDACTED]. [REDACTED] asked him to meet [REDACTED] at 8am on 20 September 2019. [REDACTED] had also asked Mr Duncan to attend the HR office at 8am on Monday, 23 September 2019 and bring copies of evidence relating to his teacher training, degree and other qualifications.

On 20 September 2019, Mr Duncan emailed [REDACTED] and [REDACTED] to say that he would be absent from work due to [REDACTED].

The [REDACTED] provided a reference the same day. The reference stated that Mr Duncan was employed from 1 November 2000 to 21 July 2015, when he was summarily dismissed for gross misconduct, namely the inappropriate touching of a student.

Another school, [REDACTED], also provided information on 20 September 2019. They confirmed that Mr Duncan was employed from 12 October 2015 until 20 January 2017, when he resigned with immediate effect. However, during that time, the school was unable to complete all stages of the safer recruitment process for Mr Duncan because he resigned from his employment.

The bundle of documents before the panel contained a letter from [REDACTED] dated 2 September 2016 inviting Mr Duncan to a meeting on 5 September 2016 to discuss concerns about a reference received from [REDACTED] (now the [REDACTED]) and for Mr Duncan to provide documentary proof of his qualifications, his degree certificate and teaching qualification certificate. The bundle also contained emails from [REDACTED] to Mr Duncan chasing his references and qualifications.

The School commenced a formal investigation on 20 September 2019.

On 22 September 2019, Mr Duncan resigned from his employment with the School with immediate effect. The School continued its investigation into Mr Duncan's conduct and an investigation report was compiled. [REDACTED] told the panel that [REDACTED] was concerned Mr Duncan had misrepresented himself deliberately and that it appeared he had done this on previous occasions. [REDACTED] was concerned that he might do the same thing again at another school. The School therefore referred the matter to the TRA on 12 December 2019.

Findings of fact

The findings of fact are as follows:

- 1. Whilst applying for the role of Science Teacher at Ark Walworth Academy and/or following your appointment, you provided false and/or misleading information, and/or failed to disclose relevant information, namely;**
 - a. Claimed to have the following qualifications which you did not in fact hold and/or failed to evidence:**
 - i. QTS Certificate**
 - ii. Degree Certificate**
 - iii. Teaching Qualifications**

As set out above, on 16 May 2019, Mr Duncan applied for a job at the School. In his application form, Mr Duncan indicated that he had QTS and had completed his teacher training. He also made reference to having his QTS and degree certificates during his various conversations with the School about the safer recruitment checks.

The panel understood that Mr Duncan purported to have undertaken a Bachelor of Education (or B.Ed) via distance learning, and that he purported to have had QTS. The panel was therefore satisfied that Mr Duncan had claimed to have QTS and a degree certificate. The panel considered that he also claimed to have “teaching qualifications” by virtue of having claimed to have a B.Ed and QTS.

The panel was further satisfied that Mr Duncan had failed to provide the School with evidence of his QTS certificate, degree certificate or teaching qualifications for the reasons set out in the background section above.

Having considered the evidence before it, the panel considered it was more likely than not that Mr Duncan did not, in fact, hold QTS, a degree certificate or teaching qualifications. In reaching this conclusion, the panel took into account the following factors:

- Mr Duncan’s TRA profile did not show that he had QTS.
- Mr Duncan was given numerous opportunities to provide evidence of his QTS, degree certificate and teaching qualifications, yet consistently failed to do so.
- When the School continued to request that Mr Duncan provide evidence of QTS and his degree certificate, Mr Duncan resigned from his employment.

- It appeared that Mr Duncan had also failed to provide his qualification certificates to another school, [REDACTED], and that he had resigned from that employment as well.

The panel was of the view that professional persons ought to have evidence of their professional qualifications available and be able to evidence them upon request. Mr Duncan purported to be an experienced teacher and, as such, should have appreciated the safer recruitment requirements and the need to provide this information.

The panel noted that Mr Duncan had chosen not to engage with the professional conduct panel hearing or provide any alternative explanation. The panel concluded, on the balance of probabilities, that, whilst applying for a role with the School and following his appointment, Mr Duncan provided false and misleading information by claiming to hold QTS and a degree/teaching qualifications which he did not in fact hold.

The panel found allegations 1(a)(i), 1(a)(ii) and 1(a)(iii) proven.

b. Held yourself out as holding QTS when this was not the case;

The panel was satisfied that Mr Duncan held himself out as holding QTS. As set out above, Mr Duncan indicated that he held QTS on his job application form and he also made reference to holding QTS during his various conversations with the School about the safer recruitment checks.

For the reasons set out at allegation 1(a) above, the panel was also satisfied that, on the balance of probabilities, Mr Duncan did not hold QTS at the relevant time.

The panel was also satisfied that, by holding himself out as having QTS, Mr Duncan provided false and/or misleading information when applying for a role with the School and following his appointment.

The panel found allegation 1(b) proven.

c. Failed to provide references upon request;

During [REDACTED] oral evidence, [REDACTED] told the panel that Mr Duncan was not expected to provide the School with references and, indeed, was not asked to provide the School with references. [REDACTED] explained that he was required to provide the School with referees and the School would then contact the referees to obtain a reference. [REDACTED] confirmed, and it was clear from Mr Duncan's application form, that he had provided details of the referees for the schools named on his application form (albeit the School did need to clarify details relating to the referees and Mr Duncan's employment history).

In closing submissions, the presenting officer conceded that, based on [REDACTED] evidence, [REDACTED] would struggle to persuade the panel that this allegation was well founded.

The panel found allegation 1(c) not proven.

d. Failed to disclose that you had worked at:

- i. Bethnal Green Academy (now Mulberry Academy) 2000-2015**
- ii. Ark Elvin Academy 2015-2016**

The panel was satisfied that, when applying for employment with the School, Mr Duncan did not disclose that he had worked at [REDACTED] (now [REDACTED]) or [REDACTED]. His application form referred to three previous positions at [REDACTED] but did not mention [REDACTED].

Mr Duncan subsequently disclosed his employment at [REDACTED] between 2000 and 2015 when addressing gaps in his employment history in an email to [REDACTED] dated 11 June 2019.

Mr Duncan did not disclose his employment with [REDACTED] between 2015 and 2016.

The School became aware of Mr Duncan's employment with [REDACTED] when [REDACTED] and [REDACTED] made a telephone call to the agency, Academics, to enquire about references. The agency confirmed that it held a reference from [REDACTED] relating to a period of employment between 2015 and 2016.

[REDACTED] subsequently confirmed that Mr Duncan was employed between 12 October 2015 and 20 January 2017.

The panel concluded that Mr Duncan failed to disclose that he had worked at [REDACTED] (now [REDACTED]) when applying for a role with the School. The panel also concluded that, when applying for a role with the School and following his appointment, Mr Duncan failed to disclose that he had worked at [REDACTED].

The panel was satisfied that Mr Duncan's failure to disclose his employment at those schools amounted to a failure to disclose relevant information.

The panel found allegations 1(d)(i) and 1(d)(ii) proven.

e. Stated that you had a career break due to illness in 2015-2016 when in fact you had worked at Ark Elvin Academy;

As set out in the background section above, on 11 June 2019 Mr Duncan emailed [REDACTED] to explain the gaps in his employment history. He referred to a gap in his

employment history between Summer 2015 and Summer 2016 as “*time out to recover from [REDACTED] and career break*”.

As set out in allegation 1(d) above, it transpired that Mr Duncan had, in fact, worked at [REDACTED] from 12 October 2015 to 20 January 2017 (and had therefore worked at [REDACTED] between 2015 and 2016).

The panel therefore concluded that, when applying for a role and following his appointment at the School, Mr Duncan provided false and/or misleading information, and at the very least failed to disclose relevant information, by stating that he had a career break due to [REDACTED] between 2015 and 2016 when, in fact, he had worked at [REDACTED] during that period of time.

The panel found allegation 1(e) proven.

f. Failed to disclose that your employment at Bethnal Green Academy (now Mulberry Academy) ended when you were dismissed for gross misconduct.

As set out in the background section above, when applying for a role with the School, Mr Duncan did not answer a question on the form pertaining to previous disciplinary action.

In [REDACTED] oral evidence, [REDACTED] told the panel that, during his job interview on 20 May 2019, [REDACTED] asked Mr Duncan whether he had been subject to any previous disciplinary action and he told her he had not.

[REDACTED] spoke to Mr Duncan on 19 September 2019 when concerns had arisen as to why [REDACTED] (formerly [REDACTED]) wished to speak with Mr Duncan before providing a reference. [REDACTED] evidence was that [REDACTED] asked Mr Duncan whether there was anything he needed to declare and he said there was not.

The reference provided by the [REDACTED] (formerly [REDACTED]) on 20 September 2019 confirmed that Mr Duncan had been dismissed for gross misconduct.

The panel was therefore satisfied that Mr Duncan had failed to disclose that his employment with the [REDACTED] (now [REDACTED]) ended when he was dismissed for gross misconduct. The panel was further satisfied that Mr Duncan had therefore provided false and/or misleading information, and at the very least failed to disclose relevant information, whilst applying for employment with the School and following his appointment.

The panel found allegation 1(f) proven.

2. Your conduct as may be found proven at 1 above lacked integrity and/or was dishonest in that you:

- a. Misrepresented yourself to gain and/or retain employment as a qualified teacher;**
- b. Sought to conceal a disciplinary incident in order to obtain and/or retain employment.**

The panel firstly considered whether Mr Duncan had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*.

The panel considered that Mr Duncan had failed to act within the higher standards expected of a teacher by his conduct as found proven at allegations 1(a)(i)-(iii), 1(b), 1(d)(i)-(ii), 1(e) and 1(f).

Mr Duncan provided false and/or misleading information and/or failed to disclose relevant information to the School when applying for a role with the School and following his appointment. This information was relevant to the School's safer recruitment checks and, as such, relevant to the safeguarding principles underpinning the education sector. As a teacher, Mr Duncan would have appreciated the importance of the safer recruitment checks and the underpinning statutory framework, and he should have assisted the School in completing those checks.

This information was therefore relevant to the School and would be relevant to any school not only in undertaking pre-employment checks but in considering whether to employ an individual.

The panel was satisfied that Mr Duncan's conduct, as found proven, lacked integrity.

The panel then considered whether Mr Duncan had acted dishonestly. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel firstly sought to ascertain the actual state of Mr Duncan's knowledge or belief as to the facts. Whilst the panel did not have the benefit of considering any evidence from Mr Duncan, it considered the evidence available to it.

The panel concluded that Mr Duncan's conduct as found proven at allegations 1(a)(i)-(iii), 1(b), 1(d)(i)-(ii), 1(e) and 1(f) was dishonest; Mr Duncan had provided information that was untrue and/or deliberately chosen to omit relevant information. The panel considered that Mr Duncan had been dishonest according to the standards of ordinary decent people.

In the panel's view, Mr Duncan did not have QTS or a degree certificate at the time he applied for a role at the School. [REDACTED] gave evidence to the panel that, had Mr Duncan applied for a role as an unqualified teacher [REDACTED] would likely have still employed him, albeit on a lower salary.

The panel considered it more likely than not that Mr Duncan provided untrue information on his application form and/or omitted relevant information in order to gain employment as a teacher at the School and be paid on the upper pay scale. Mr Duncan had then continued to conceal relevant information during his employment for his own personal gain.

The panel found allegation 2(a) and 2(b) proven.

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

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

In doing so, the panel had regard to the document Teacher misconduct: The prohibition of teachers, which is referred to as 'the Advice'.

The panel was satisfied that the conduct of Mr Duncan, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Duncan 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- 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 was satisfied that Mr Duncan's conduct, as found proven, amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

The panel found that the offence of fraud or serious dishonesty was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

Accordingly, the panel was satisfied that Mr Duncan was guilty of unacceptable professional conduct.

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

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

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

Having found the facts of allegations 1(a)(i)-(iii), 1(b), 1(d)(i)-(ii), 1(e), 1(f), 2(a) and 2(b) proved, the panel further found that Mr Duncan's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

The panel was 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 the following 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.

The panel's findings against Mr Duncan involved the provision of false and/or misleading information; a failure to disclose relevant information; conduct lacking integrity; and dishonest conduct. In the light of these findings there was a strong public interest consideration in declaring proper standards of conduct in the profession as the conduct found against Mr Duncan was outside that which could reasonably be tolerated.

There was also a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, as Mr Duncan's conduct prevented the School from carrying out its safer recruitment checks which are in place to protect pupils. Furthermore, the panel found that Mr Duncan held himself out as being a qualified teacher with a B.Ed degree, when that was not the case. Finally, Mr Duncan sought to conceal the fact that he had been dismissed from his employment with [REDACTED] (now [REDACTED]) for gross misconduct, namely inappropriately touching a student.

The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Duncan was not treated with the utmost seriousness when regulating the conduct of 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 Mr Duncan.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Duncan. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests;
- collusion or concealment including:
 - lying to prevent the identification of wrongdoing;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, 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 concluded that Mr Duncan's actions were deliberate.

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

No evidence was submitted to attest to Mr Duncan's previous history or ability as a teacher, nor was there any evidence before the panel that Mr Duncan had demonstrated exceptionally high standards in both personal and professional conduct or contributed significantly to the education sector.

Mr Duncan did not engage with the TRA process at all, nor did he provide any information or evidence in connection with it. Similarly, Mr Duncan did not engage with the investigation carried out by the School; in fact he resigned almost immediately after being informed that an investigation would take place. As such, there was no evidence before the panel in respect of mitigation, insight or remorse.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Duncan of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Duncan.

The serious nature of Mr Duncan's conduct was a significant factor in forming that opinion. The panel was of the view that Mr Duncan had deliberately misrepresented himself and his qualifications in order to gain employment as a qualified teacher and be paid on the upper pay scale, when he was not, in fact, a qualified teacher. Furthermore, he deliberately concealed his dismissal from [REDACTED] (now [REDACTED]) for gross misconduct. His dismissal related to the inappropriate touching of a student and was therefore a safeguarding issue about which the School should have been informed. Mr Duncan purported to be experienced in the education sector and, therefore, ought to have appreciated the importance of safer recruitment checks, safeguarding and the obligation on those employed within the education sector to comply with those obligations.

Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The panel took account of paragraph 50 of the Advice which sets out a list of behaviours where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. The panel did not find any of those behaviours to be relevant.

The panel also took account of paragraph 51 of the Advice which sets out a list of behaviours where it is likely that the public interest will have greater relevance and weigh in favour of a longer review period. The panel found that fraud or serious dishonesty was relevant in this case.

Whilst paragraph 51 indicated that, in this case, a longer review period would be appropriate, the panel was mindful that the lists at paragraphs 50 and 51 are not exhaustive and that the panel should consider the case on its individual merits, taking into account the circumstances involved.

In the panel's view, Mr Duncan was genuinely deceptive. He had effectively impersonated a qualified teacher. There was evidence before the panel that this formed part of a pattern of behaviour; [REDACTED] had also been unable to complete their safer recruitment checks and, again, Mr Duncan resigned when [REDACTED] continued to look into this matter.

There was also evidence before the panel that Mr Duncan had deliberately concealed information from the School; he omitted from his application form information about his dismissal from [REDACTED] (now [REDACTED]) and his employment with [REDACTED].

The panel was mindful that Mr Duncan had been working in schools over a long period of time, since 2000. In addition to the concealment of his dismissal for safeguarding reasons, the panel was concerned that he had misrepresented himself as a qualified teacher with a B.Ed degree, when this was not the case, whilst employed at the School and, it appeared, whilst employed at [REDACTED]. The panel was also concerned that Mr Duncan's conduct showed little regard for the important statutory safeguarding frameworks within the education sector. The panel was particularly concerned that there was a high risk of repetition of his behaviour, which was shared by [REDACTED] in

[REDACTED] evidence. In view of its findings, the panel could not foresee a scenario where Mr Duncan could satisfy any panel that he was safe to return to teaching.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case the panel found allegation 1(c) not proven. I have therefore put that matter entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Kaleem Duncan should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Duncan 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
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- 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 Duncan fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include providing false and/or misleading information, failing to disclose information, conduct found to lack integrity and was dishonest.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Duncan, 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, "There was also a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, as Mr Duncan's conduct prevented the School from carrying out its safer recruitment checks which are in place to protect pupils. Furthermore, the panel found that Mr Duncan held himself out as being a qualified teacher with a B.Ed degree, when that was not the case. Finally, Mr Duncan sought to conceal the fact that he had been dismissed from his employment with [REDACTED] (now [REDACTED]) for gross misconduct, namely inappropriately touching a student." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Duncan did not engage with the TRA process at all, nor did he provide any information or evidence in connection with it. Similarly, Mr Duncan did not engage with the investigation carried out by the School; in fact he resigned almost immediately after being informed that an investigation would take place. As such, there was no evidence before the panel in respect of mitigation, insight or remorse." In my judgement, the lack of insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Duncan was not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to

consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct and conduct that may 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 Duncan himself and the panel comment “No evidence was submitted to attest to Mr Duncan’s previous history or ability as a teacher, nor was there any evidence before the panel that Mr Duncan had demonstrated exceptionally high standards in both personal and professional conduct or contributed significantly to the education sector.”

A prohibition order would prevent Mr Duncan 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 following comment “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 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.”

I have also placed considerable weight on the finding “In the panel’s view, Mr Duncan was genuinely deceptive. He had effectively impersonated a qualified teacher. There was evidence before the panel that this formed part of a pattern of behaviour; [REDACTED] had also been unable to complete their safer recruitment checks and, again, Mr Duncan resigned when [REDACTED] continued to look into this matter.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Duncan has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel's comments "The panel was mindful that Mr Duncan had been working in schools over a long period of time, since 2000. In addition to the concealment of his dismissal for safeguarding reasons, the panel was concerned that he had misrepresented himself as a qualified teacher with a B.Ed degree, when this was not the case, whilst employed at the School and, it appeared, whilst employed at [REDACTED]. The panel was also concerned that Mr Duncan's conduct showed little regard for the important statutory safeguarding frameworks within the education sector. The panel was particularly concerned that there was a high risk of repetition of his behaviour, which was shared by [REDACTED] in [REDACTED] evidence. In view of its findings, the panel could not foresee a scenario where Mr Duncan could satisfy any panel that he was safe to return to teaching."

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the conduct, impersonating a qualified teacher, dishonesty and no insight or remorse. From what the panel have found there is a high risk of repetition and this poses a safeguarding risk.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Kaleem Duncan is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Duncan shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Duncan has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.



Decision maker: Sarah Buxcey

Date: 12 October 2023

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