



Teaching
Regulation
Agency

Mr Arif Pirbhai: Professional conduct panel outcome

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

January 2024

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

Teacher:	Mr Arif Pirbhai
TRA reference:	20696
Date of determination:	9 January 2024
Former employer:	Consilium Academies Trust, Ellesmere Park High School, Salford

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 8 to 9 January 2024 by way of a virtual hearing, to consider the case of Mr Arif Pirbhai.

The panel members were Mr Peter Ward (lay panellist – in the chair), Ms Susanne Staab (teacher panellist) and Ms Karen Graham (teacher panellist).

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

The presenting officer for the TRA was Mr Greg Foxsmith of Kingsley Napley solicitors.

Mr Pirbhai was present and was represented by Mr Colin Henderson of 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 26 October 2023.

It was alleged that Mr Arif Pirbhai was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as an ICT teacher at Ellesmere Park High School he:

1. Did not comply with the administration of controlled assessments in or around 2021, in that on one or more occasions he:
 - a) Typed directly into pupils centre assessed tasks; and/or
 - b) Amended work which had been completed by pupils.
2. Made inappropriate comments to and/or about pupils, including:
 - a) Why do you think refugees and asylum seekers get new build housing”, or words to that effect;
 - b) “Why did your parents come to England?”, or words to that effect;
 - c) Asking a pupil who identified as non-gender specific “Controversial, I know but do you want me to put another box in for your kind”, or words to that effect.
3. The matters at 1(a) and/or 1(b) demonstrate a lack of integrity.

Mr Pirbhai admitted allegations 1(a), 1(b), 2(a), 2(b) and 3 and partially admitted allegation 2(c). Mr Pirbhai further admitted that the admitted facts in relation to 1(a), 1(b) and 3 only, amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application for part of the hearing to be heard in private

The panel considered an application from Mr Pirbhai that part of the hearing [Redacted] should be heard in private.

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 Mr Pirbhai’s private life, and there was no contrary public interest in those areas 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.

Summary of evidence

Documents

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

- Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 5
- Section 2: Notice of hearing and response – pages 6 to 13
- Section 3: TRA witness statements – pages 14 to 16
- Section 4: TRA documents – pages 17 to 188
- Section 5: Teacher documents – pages 154 to 209

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

Witnesses

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

- Witness A, [Redacted]

The panel heard oral evidence from the teacher and following witness called by the teacher:

- Witness B, [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.

Mr Pirbhai commenced employment at Ellesmere Park High School ('the School') on a supply basis in the English department in May 2019. In January 2020 he moved to teach in the ICT department and in April 2021 he was made a permanent member of staff as an ICT, Business and Personal Social Health and Education ('PSHE') teacher.

Concerns were raised on 18 October 2021 following a developmental departmental review ('DDR') lesson observation with regards to inappropriate comments made by Mr Pirbhai to students.

On 16 November 2021, further concerns were raised during the ICT/Business Studies DDR with regards to inappropriate comments made by Mr Pirbhai to a student, and concerns were raised by students during a student voice session in that Mr Pirbhai completed students' work on their behalf.

On 18 November 2021, the disciplinary investigation commenced and on 25 November 2021, Mr Pirbhai was suspended whilst the allegations were being investigated.

A disciplinary hearing took place on 14 March 2022, and the matter was referred to the TRA on 29 March 2022.

Findings of fact

The findings of fact are as follows:

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

- 1. Did not comply with the administration of controlled assessments in or around 2021, in that on one or more occasions you:**
 - a) Typed directly into pupils centre assessed tasks; and/or**
 - b) Amended work which had been completed by pupils.**

The panel noted the statement of agreed facts signed by Mr Pirbhai on 10 December 2023, in which he admitted allegations 1(a) and 1(b). The panel also noted Mr Pirbhai's witness statement and oral evidence, where he admitted allegations 1(a) and 1(b).

Mr Pirbhai confirmed that he did over-assist pupils as alleged and that his actions lacked integrity and were unacceptable professional conduct. Mr Pirbhai confirmed in his written

and oral evidence that he wanted to prove to Individual A, [Redacted], at the School, that he was not inadequate.

The panel noted the witness statement of Witness A, [Redacted], who was appointed to investigate concerns relating to Mr Pirbhai. Witness A, [Redacted] explained that the concerns relating to Mr Pirbhai came to light during a DDR, which is part of the School's standard quality assurance process. Further concerns also came to light through student voice, which also forms part of the School's quality assurance process whereby students are chosen at random and taken out of their class to answer a series of questions based on their learning. This process is conducted by a different member of the senior leadership staff.

As part of the investigation, Witness A [Redacted] compiled a report which formed part of the bundle of documents before the panel; Witness A [Redacted] confirmed she had read and reviewed the report and confirmed it was true and accurate.

The panel found allegations 1(a) and 1(b) proven.

2. You made inappropriate comments to and/or about pupils, including:

- a) Why do you think refugees and asylum seekers get new build housing”, or words to that effect;**
- b) “Why did your parents come to England?”, or words to that effect;**

Mr Pirbhai admitted allegations 2(a) and 2(b), as set out in the statement of agreed facts and in his oral evidence.

Mr Pirbhai submitted that in a PHSE observed lesson on 18 October 2021, he was trying to address the racial stereotypes that two of his pupils had against refugees. He had been teaching several lessons on immigration and asylum seekers and had been approached by two white female pupils who challenged him that asylum seekers get better housing than British people. Mr Pirbhai's response was that this was not true and that this should be addressed in a future lesson.

In the lesson on 18 October 2021, which was about why people emigrate and move to different countries, he was going through the PowerPoint presentation and recalled the comment that the pupils had previously made and decided to address the myth that asylum seekers get more than British citizens. Mr Pirbhai did not remember singling out the pupils or their views in the class but accepted that he did challenge the stereotype about housing. He also accepted that he probably asked questions along the lines of the words in allegations 2(a) and 2(b). Mr Pirbhai felt that he knew the pupils well and could have a frank discussion with them, but noted that Witness B, [Redacted], recorded in her notes that it made one pupil feel uncomfortable, and Mr Pirbhai was very sorry for doing so.

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

3. The matters at 1(a) and/or 1(b) demonstrate a lack of integrity.

Mr Pirbhai admitted allegation 3, as set out in the statement of agreed facts and during his oral evidence. Mr Pirbhai acknowledged in his oral evidence that his actions relating to allegations 1(a) and 1(b) lacked integrity and he explained that this was the worst thing he had ever done.

The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel considered that Mr Pirbhai had failed to act within the higher standards expected of a teacher by typing into pupils' assessed tasks and amending work which had already been completed by pupils.

Teachers are placed in a position of trust, and the panel felt that failing to comply with the administration of controlled assessments clearly lacked integrity.

The panel found allegation 3 proven.

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

2. You made inappropriate comments to and/or about pupils, including:

c) Asking a pupil who identified as non-gender specific "Controversial, I know but do you want me to put another box in for your kind", or words to that effect.

In respect of allegation 2(c), Mr Pirbhai explained that he did not use the exact words as referred to in the allegation, as he had not used the phrase "*for your kind*".

Mr Pirbhai submitted that in a Year 10 business lesson on 16 November 2021, his recollection was that he asked a pupil what to include in a questionnaire, and she mentioned "*non-binary*". The pupil mentioned that they did not mind being asked this, as Mr Pirbhai was acknowledging them and who they were. Mr Pirbhai did not recall using the words "*for your kind*" and found this abhorrent as using this language goes against his personal beliefs, which the panel noted was demonstrated from his history working in equality, for example his work at the Commission of Racial Equality. The panel also noted from the evidence presented, that using a statement of this sort would go against Mr Pirbhai's morals, nature and beliefs.

Mr Pirbhai had previously admitted during the initial disciplinary investigation saying, "*for your kind*". However, the panel heard Mr Pirbhai's oral evidence on why he had done so. The panel noted that the interview with Witness A, [Redacted] on 20 December 2021 would have been a stressful situation. The panel considered Mr Pirbhai's written and oral evidence where he stated he did not hear the words "*your kind*" and whilst he admitted

he had said the earlier part he could not remember hearing the last two words put to him. The panel noted that the situation was stressful as it was a long fact finding disciplinary interview and Mr Pirbhai had other personal situations going which added to this stress. The panel found that on the balance of probabilities, he did not say the words “*your kind*”.

The panel found Mr Pirbhai a credible witness.

Individual B, [Redacted] witnessed the Year 10 business lesson on 16 November 2021, where the discussion with the pupil took place. The panel was provided with Individual B, [Redacted] notes of the lesson, which indicated that Mr Pirbhai had said: “Controversial, I know, *but do you want me to put another box in for your kind*”. However, Individual B, [Redacted] was not called to give oral evidence at the hearing. The panel, therefore, placed less weight on this evidence as they concluded this was hearsay evidence.

The panel found allegation 2(c) not 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 proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession.

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 Pirbhai, in relation to the facts found proved for allegations 1(a), 1(b) and 3, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Pirbhai was in breach of the following standards: A teacher is expected to demonstrate consistently high standards of personal and professional conduct, in particular:

- 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 noted that Mr Pirbhai had not acted in accordance with paragraph 6 in Part 1 of the Teachers Standards as he did not make accurate and productive use of assessments. Mr Pirbhai would have had access to exam board guidance and this must be followed absolutely. It was incumbent on Mr Pirbhai to go and find that information and shape his work accordingly.

The panel was satisfied that the conduct of Mr Pirbhai amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Mr Pirbhai's actions meant the pupils had to re-submit their assessment which resulted in them needing to spend more time on their coursework before re-submitting. The panel also noted the impact this could have had in that it would undermine the department and the School's reputation.

The panel also considered whether the teacher'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 Pirbhai was guilty of unacceptable professional conduct in respect of allegations 1(a), 1(b) and 3.

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 Pirbhai's actions in respect of allegations 1(a) and 1(b), and 3 constituted conduct that may bring the profession into disrepute.

The panel then went on to consider allegations 2(a) and 2(b).

The panel had regard to the Advice and the definition of unacceptable professional conduct being misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. The panel was not satisfied that the conduct of Mr Pirbhai in relation to allegations 2(a) and 2(b) involved breaches of the Teachers' Standards or fell significantly short of the standards expected of a teacher.

The panel found Witness B, [Redacted] to be a credible witness and her oral evidence clear and concise. The panel noted that Witness B, [Redacted] said Mr Pirbhai's questions guided the children and best practice is to allow the pupils to discuss issues in an open ended manner, whilst offering evidence to substantiate points; however, Witness B, [Redacted] was clear that this was a training issue and not a safeguarding concern and the panel agreed with her view.

The panel noted that Witness B, [Redacted] agreed the comments may have made the pupil feel uncomfortable and explained it was the way Mr Pirbhai delivered the lesson rather than the content. The panel also noted that Witness B, [Redacted] clearly did not feel Mr Pirbhai's comments posed a risk to any of the pupils and did not feel it had an adverse effect on them.

The panel agreed that Mr Pirbhai's language was clumsy and it was bad practice to ask leading questions; however, his comments were not influenced by prejudice or racial hatred. The panel considered that Mr Pirbhai, by his own oral admission, had admitted that he had been clumsy in his language.

Taking into account the context of Mr Pirbhai's comments during a PSHE lesson and the motivation behind them, the panel did not find that they amounted to unacceptable professional conduct.

The panel was satisfied that the conduct of Mr Pirbhai, in relation to the facts found proved, did not involve breaches of the Teachers' Standards.

The panel also considered whether the teacher'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 was relevant.

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, given they did not find that allegations 2 (a) and 2(b) were misconduct, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

Accordingly, the panel did not find that Mr Pirbhai was guilty of unacceptable professional conduct in respect of allegations 2(a) and 2(b).

The panel had regard to the Advice and the definition of conduct that may bring the profession into disrepute, being conduct that could potentially damage the public's perception of a teacher, therefore bringing the teaching profession into disrepute.

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

The panel considered that if the public was aware of the context in which Mr Pirbhai's comments were made, this would not be likely to negatively impact the public perception.

Accordingly, the panel did not find the actions taken by Mr Pirbhai in respect of allegations 2(a) and 2(b) amounted to conduct which would 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 a 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.

In light of the panel's findings against Mr Pirbhai, which involved amending pupils' examination coursework, there was a strong public interest consideration with respect to the protection of pupils.

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

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Pirbhai was outside that which could reasonably be tolerated.

The panel decided that there was a strong public interest consideration in retaining Mr Pirbhai in the profession since no doubt had been cast upon his abilities as an educator, and he is able to make a valuable contribution to the profession. The panel found that Mr Pirbhai had gone above and beyond as an educator and noted the virtual learning system he had planned and implemented during the Covid-19 pandemic to ensure all

students were able to access online education during the Covid-19 pandemic. The panel found Mr Pirbhai to be a credible witness and passionate teacher.

The panel also considered that whilst his actions were serious there was no long term detriment to the pupils in question. They were able to re-do the course work, submit it and have it accredited towards their BTEC grade.

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 Pirbhai. 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 the teacher. 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 proven. 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;
- abuse of position or trust (particularly involving pupils);
- deliberate action in serious contravention of requirements for the conduct of an examination or assessment leading to an externally awarded qualification or national assessment (or deliberate collusion in or deliberate concealment of such action), particularly where the action had, or realistically had the potential to have, a significant impact on the outcome of the examination assessment.

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.

There was no evidence that Mr Pirbhai's actions were not deliberate.

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

There was evidence to demonstrate exceptionally high standards in both personal and professional conduct or that Mr Pirbhai contributed significantly to the education sector.

The panel found that Mr Pirbhai had demonstrated both significant insight and genuine remorse.

The panel considered the very significant mitigating factors within Mr Pirbhai's witness statement. [Redacted]

Mr Pirbhai explained that the senior leaders were very supportive and gave him time off, but he was shocked that [Redacted] made comments that he was “*lazy*” and “*skiving*” and even objected to him going to see his [Redacted].

Mr Pirbhai stated that by October 2021, he was at his lowest. He stated that he had experienced [Redacted]. He stated that around this time, [Redacted] made some horrible comments such as “*the kids don’t respect you*” and “*you are beyond help*”, which brought him to tears as [Redacted].

Mr Pirbhai explained that his over-assisting of pupils was completely wrong, and he took full responsibility for the mistakes he had made. Mr Pirbhai had admitted his dishonesty from the outset, and the panel felt he should be given credit for his honesty. He stated that he was truly sorry to the School and the pupils.

The panel noted that whilst his personal situation and the issues he had with [Redacted] are not an excuse, these would have impaired his ability to make rational decisions. The panel considered that both Witness B, [Redacted] and Witness A, [Redacted] were keen to highlight in their oral evidence that this behaviour was out of character and had limited impact on the pupils’ outcomes.

The panel took into account that Mr Pirbhai stated that he secured a temporary post at [Redacted] from March 2022 to summer 2023. He stated that he was appointed as associate deputy headteacher responsible for the quality of education and had since been given a role to support another school in the same trust, which he does one day a week.

The panel noted that Mr Pirbhai explained that he is continuing to work in a voluntary capacity at [Redacted], supporting the organisation to ensure that they are providing the resources to support the most vulnerable people in society. The panel considered his contribution to the community outside school demonstrated a considerable sense of responsibility and commitment.

Mr Pirbhai stated that for the past seven years, he has privately tutored underachieving pupils in English and maths GCSE.

Mr Pirbhai submitted that he had begun a role at [Redacted] as a trainee project manager, which is 3 days a week.

The panel considered the compelling character references that were submitted in support of Mr Pirbhai, which highlighted Mr Pirbhai’s usual integrity and good character. The following comments were noted in particular;

- Individual C, [Redacted]

“Moreover, Arif’s ability to connect with his students on a personal level is truly.

remarkable. He is a great listener and shows a genuine interest in the well-being and progress of his students. He creates a supportive and inclusive classroom environment where everyone feels valued and respected.”

- Individual D, [Redacted]

“He has trained all staff to adhere to examination board requirements, and implemented CPD on this and other quality of education issues that needed to be addressed. This for example included tracking and monitoring, standardisation, and intervention to ensure accuracy of data and assessment.”

- Individual E, [Redacted]

“Arif was always keen to offer support to my son who had some unidentified learning needs. He got on well with my son and seemed to understand his needs. I am aware that Arif sought additional support for my son via the correct channels in terms of asking for SENCO assessments to better understand his needs. He also chased these requests when they were not initially actioned. My son enjoyed his lessons and Arif’s calm and measured approach was appreciated by us both. My son had a lot of respect for Arif.”

- Witness B, [Redacted]

“ To my knowledge Arif is a diligent teacher who values positive relationships with students and with colleagues. He actively sought advice and support during the period of time that I worked with him. Arif wanted at all times to provide students with a good experience of education. Arif is a passionate and enthusiastic teacher with a strong work ethic. He regularly asked for support if he was unsure and brought sound ideas and learning opportunities to the table when planning.”

- Individual F, [Redacted]

“Arif has always given up his spare time to help others and this has resulted in him spending very little time on himself and his family. People lean on him for help and support but he doesn’t lean on others.”

- Individual G, [Redacted]

“I knew Arif when I chaired [Redacted]. I believe him to be honest, hardworking and extremely highly motivated to give himself to achieving equality for those who are disadvantaged by prejudice and discrimination of all sorts. Arif could not be described as a "box ticker", and I am not surprised to see that he has admitted some apparently technical omissions in his practice. However, I believe that, with appropriate supervision, his blend of passion about equality and energy for the needs of young people would be an inspirational contribution to any school. If I still had school aged children, I would certainly want them taught and inspired by Arif.”

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 Mr Pirbhai would be unlikely to behave in a similar way in the future. The incident happened during a traumatic period of his life, and he acted outside his normal character. This was supported by Individual B, [Redacted] lesson observation, which described him as “*manic*” and “*frantic*” for the whole duration of the learning walk.

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 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.

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 of the allegations proven and found that in relation to Allegations 1a, 1b and 3 those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has found one of the allegations not proven (Allegation 2c), and found that some allegations (Allegations 2a and 2b) do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

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

- 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 has found that the conduct of Mr Pirbhai fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include a finding of failing to comply with the administration of controlled assessments by typing into pupils' centred assessed tasks and amending work which had been completed by pupils. The panel has found this conduct demonstrated a lack of integrity.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Pirbhai, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "Mr Pirbhai's actions meant the pupils had to re-submit their assessment which resulted in them needing to spend more time on their coursework before re-submitting." 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 has set out as follows, "The panel found that Mr Pirbhai had demonstrated both significant insight and genuine remorse." The panel has also commented that "Mr Pirbhai explained that his over-assisting of pupils was completely wrong, and he took full responsibility for the mistakes he had made. Mr Pirbhai had admitted his dishonesty from the outset, and the panel felt he should be given credit for his honesty. He stated that he was truly sorry to the School and the pupils." The panel has taken the view that Mr Pirbhai would be unlikely to behave in a similar way in the future. 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 has observed that "the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception." I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Pirbhai himself. The panel has commented that “there was a strong public interest consideration in retaining Mr Pirbhai in the profession since no doubt had been cast upon his abilities as an educator, and he is able to make a valuable contribution to the profession.” The panel considered a number of character references which the panel found to be “compelling” and “which highlighted Mr Pirbhai’s usual integrity and good character”.

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

In this case, I have placed considerable weight on the panel’s comments concerning Mr Pirbhai’s insight and remorse, and its view that “he would be unlikely to behave in a similar way in the future. The incident happened during a traumatic period of his life, and he acted outside his normal character.” The panel has noted very significant mitigating factors relating to [Redacted]. I have noted the finding of the panel that “whilst his personal situation and the issues he had with [Redacted] are not an excuse, these would have impaired his ability to make rational decisions.”

I have also placed considerable weight on the finding of the panel that “whilst his actions were serious there was no long term detriment to the pupils in question. They were able to re-do the course work, submit it and have it accredited towards their BTEC grade.”

I have agreed with the panel’s view that the nature and severity of the behaviour were at the less serious end of the possible spectrum and that there were significant mitigating factors present.

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

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

Decision maker: David Oatley

Date: 16 January 2024

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