



Teaching  
Regulation  
Agency

# **Mrs Cheryl Smith: Professional conduct panel outcome**

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

**February 2024**

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

**Teacher:** Mrs Cheryl Smith  
**Teacher ref number:** 3575209  
**Teacher date of birth:** 15 September 1979  
**TRA reference:** 18739  
**Date of determination:** 5 March 2024  
**Former employer:** Denby Grange School, Wakefield

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 19 to 22 February and 5 March 2024 by way of a virtual hearing, to consider the case of Mrs Cheryl Smith.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mrs Lauren Gray (lay panellist) and Mr Gerry Wadwa (teacher panellist).

The legal adviser to the panel was Ms Lucy Churchill of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Matilda Heselton of Browne Jacobson LLP solicitors.

Mrs Smith 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 15 January 2024, as amended by application during the course of the hearing.

It was alleged that Mrs Smith was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst deployed to the Denby Grange School:

1. She engaged in unprofessional behaviour on or around 25 June 2019 in that she took one or more pupils in a high performance car and/or undertook reckless driving by driving at around 100mph;
2. She failed to obtain appropriate permission and/or complete the required risk assessments prior to taking one or more pupils on the field trip on or around 25 June 2019.
3. Her conduct as may be found proven at Allegation 1 and/or 2 amounted to failing to safeguard pupils and/or exposing pupils to the risk of harm.

Mrs Smith denied the facts of allegations 1 to 3, as set out in her statement to the TRA dated 15 April 2021. Mrs Smith denied that her behaviour amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

## Preliminary applications

### Application to admit additional documents

The panel considered a preliminary application from the presenting officer for the admission of additional documents.

The presenting officer's documents were a supplementary bundle consisting of documents relevant to the teacher's application to postpone the hearing and the presenting officer's response.

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 ("the 2018 Procedures"). Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the 2018 Procedures.

The panel heard representations from the presenting officer in respect of the application.

The panel considered the additional documents were relevant to the issues to be determined and should be admitted in the interests of a fair hearing. Accordingly, the documents were added to the bundle.

## Application to postpone and/or proceed in the absence of the teacher

Mrs Smith was not present at the hearing nor was she represented.

The panel considered the teacher's application for the hearing to be postponed and the presenting officer's application to proceed in the absence of Mrs Smith.

The panel noted the following:

- Mrs Smith gave permission for the TRA to liaise with [REDACTED], Individual F, regarding these proceedings by email dated 13 November 2023.
- On 13 February 2024, Individual F emailed the TRA to request the hearing be rearranged for [REDACTED] and explained that Mrs Smith was in talks with [REDACTED].
- On 14 February 2024, the presenting officer acknowledged, by email, Individual F's application to postpone the hearing and asked them to forward any other information they wished to bring to their attention, such as supporting [REDACTED] evidence. Individual F was advised that the panel would decide whether to postpone the hearing on 19 February 2024.
- On 16 February 2024, the presenting officer emailed Individual F the TRA's response to their postponement application and details of the presenting officer's application to proceeding in the absence of the teacher.
- On 18 February 2024, Individual F emailed the presenting officer to explain that [REDACTED].
- No response or further information was provided by Individual F.

The panel considered the supplementary bundle of documents and the presenting officer's written response to the postponement application. The panel noted the background to the case including the four attempts to list the case for a substantive hearing since October 2021.

The panel also considered the oral submissions of the presenting officer.

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 noted that Mrs Smith had agreed to waive the eight weeks' notice period in accordance with the 2018 Procedures. The panel was satisfied that the Notice of Proceedings had been sent to Mrs Smith in accordance with the 2018 Procedures.

The panel considered all the circumstances of which it was aware when considering fairness to the teacher and the TRA, and the public interest:

- Mrs Smith had sought a postponement to the hearing, however the panel did not consider that a postponement would procure her attendance at a hearing when reflecting on the background to the case. The panel noted that Mrs Smith had not provided any details of when she was likely to be able to attend in the future.
- There was no up to date [REDACTED] evidence before the panel that Mrs Smith was [REDACTED] the hearing.
- The panel noted a case management decision on 15 March 2023, which stated that, in the absence of any further [REDACTED] evidence, a substantive hearing should proceed whether or not Mrs Smith attended, although the panel did not consider itself bound by this decision.
- Mrs Smith had previously been provided with several opportunities to provide relevant [REDACTED] evidence attesting to [REDACTED] attend a hearing and had failed to do so.
- On two previous occasions, Mrs Smith had made last minute applications for the hearing to be adjourned [REDACTED] with limited [REDACTED] evidence provided.
- As Mrs Smith had supplied a witness statement and supporting evidence ahead of the hearing, the panel considered that her position was clear and would enable it to test the evidence put forward on behalf of the TRA therefore limiting the disadvantage to Mrs Smith.
- There was no suggestion that the request for a postponement was that Mrs Smith wanted to secure legal representation or present new evidence.
- The allegations relate to events which took place in 2019, the case had already been subject to substantial delay, and it was in the public interest for the hearing to take place.
- It also considered the effect on the witnesses of any delay. The TRA intended to call 5 witnesses who had already been stood down on several occasions. The panel considered the inconvenience to the witnesses (some of whom had to make arrangements around medical and childcare commitments to attend) and the impact on the memories of the witnesses given the passage of time.

For the reasons set out above, the panel decided to refuse the application to postpone and decided it was appropriate to proceed in the absence of Mrs Smith.

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 Mrs Smith was neither present nor represented.

#### Application to amend the allegations

The presenting officer made an application to amend the allegations as follows:

- Allegation 1 from '*You engaged in unprofessional behaviour on 25 June 2019 in that you took one or more pupils in a high performance car and/or undertook reckless driving by speeding to at least 102mph.*' to '*You engaged in unprofessional behaviour on **or around** 25 June 2019 in that you took one or more pupils in a high performance car and/or undertook reckless driving by **driving at around 100mph** ~~speeding to at least 102mph.~~*'; and
- Allegation 2 from '*She failed to obtain appropriate permission and/or complete the required risk assessments prior to taking one or more pupils on the field trip on 25 June 2019*' to '*She failed to obtain appropriate permission and/or complete the required risk assessments prior to taking one or more pupils on the field trip on **or around** 25 June 2019*'.

The panel noted that the teacher had been informed of the proposed changes to the allegations prior to the hearing in that the presenting officer emailed Individual F on 7 February 2024 to inform them of the application to amend allegations. The panel further noted Individual F was advised to indicate if there was any objection to the amendments sought. No response was received.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the 2018 Procedures.

The panel considered that the proposed amendments would not change the nature, scope or seriousness of the allegations. The panel concluded that there was no prospect of the case being presented differently had the amendments been made at an earlier stage. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations and therefore no unfairness or prejudice was caused.

Accordingly, the panel did grant this application and considered the amended allegations, which are set out above.

#### Application to amend the allegations

The presenting officer made an application to amend the stem of the allegation from:

- *'It was alleged that Mrs Smith was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed by True Staffing Solutions Ltd and deployed to the Denby Grange School' to 'It was alleged that Mrs Smith was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst ~~employed by True Staffing Solutions Ltd and deployed to the Denby Grange School~~'.*

The presenting officer explained that the application to amend the stem of the allegation had arisen from the evidence of Witness E in that they could not confirm the employment status of Mrs Smith while engaged by True Staffing Solutions Ltd ('the Agency').

The panel noted that the teacher had not been informed of the proposed change to the allegation.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the 2018 Procedures.

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]*.

The panel considered that the proposed amendment would not change the nature, scope or seriousness of the allegations. The panel concluded that there was no prospect of the case being presented differently had the amendment been made at an earlier stage. As such, the panel considered that the proposed amendment did not amount to a material change to the allegations and therefore no unfairness or prejudice was caused.

Accordingly, the panel did grant this application and considered the amended allegations, which are set out above.

#### Application for statement of witness to be admitted as hearsay

The presenting officer made an application that the statement of Individual B be admitted as hearsay evidence in the absence of the witness.

Individual B was unable to attend the hearing due to unforeseen childcare commitments. The panel considered whether to admit their written statement in accordance with paragraph 4.25 of the 2018 Procedures. The panel heard representations from the presenting officer in respect of the application and considered legal advice.

The panel carefully considered the submissions made in determining whether it would be fair to admit the statement as hearsay evidence. The panel was satisfied that the reliability of Individual B's evidence could be tested and was not the sole or decisive



evidence in relation to the allegations. The panel considered Individual B's witness statement was relevant to the issues to be determined and should be admitted in the interests of a fair hearing. The panel concluded that it would treat it with caution and place appropriate weight on it.

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 "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 2018 Procedures in this case.

## Summary of evidence

### Documents

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

- Section 1: Preliminary Documents– pages 5 to 6
- Section 2: Notice of Proceedings and response – pages 8 to 26
- Section 3: TRA witness statements – pages 28 to 63
- Section 4: TRA documents – pages 65 to 136
- Section 5: Teacher documents – pages 138 to 170.

In addition, the panel agreed to accept the following:

- TRA's supplementary bundle of documents – pages 171 to 196

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 the following witnesses called by the TRA:

- Witness A [REDACTED]
- Witness C [REDACTED]
- Witness D [REDACTED]

- Witness E [REDACTED]

No witnesses were called to give oral evidence on behalf of the teacher.

## 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 Smith was deployed to Denby Grange School ('the School') by the Agency on 25 February 2019. The School provides education for pupils with special educational needs. Mrs Smith was a tutor at the School and her role consisted of planning, teaching and assessing English (Key Stage 4).

On 25 June 2019, Mrs Smith took Pupil A, Pupil B and Pupil C on a trip with the assistance of Individual B [REDACTED], [REDACTED] at the School. Mrs Smith allegedly drove the three pupils and staff member in a high-performance car at a speed of over 100mph.

Individual B reported her concerns to the School on 25 June 2019. A referral was made to the LADO and the Agency was also notified. The Agency contacted Mrs Smith and informed her of the allegations.

During a lesson in July 2019, Pupil B showed a second member of staff, Witness A, a video of the inside of a car which appeared to be moving extremely fast. Pupil B claimed that he had taken the video when he was out with Mrs Smith.

Mrs Smith attended a meeting with the Agency to discuss the allegations, on 1 August 2019. Mrs Smith claimed that she had driven safely and to the speed limits.

The Agency commenced a management investigation on 2 August 2019. An allegation management meeting was held on 16 August 2019. Mrs Smith's engagement at the Agency was terminated on 26 June 2019.

## 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. You engaged in unprofessional behaviour on or around 25 June 2019 in that you took one or more pupils in a high-performance car and/or undertook reckless driving by driving at around 100mph;**

The panel noted Mrs Smith's statements dated 4 July 2019, 30 January 2020 and 15 April 2021. The panel noted that Mrs Smith admitted that she took Pupils A, B and C in a high-performance car on 25 June 2019, but denied speeding.

Mrs Smith stated that she arranged for a small group of pupils to be taken out in a high-performance car. Mrs Smith explained that she was insured to drive the car as she had changed her car insurance to a business policy for the purpose of her job and to drive with the pupils in the car. Mrs Smith stated that she provided a copy of her policy to the School.

Mrs Smith stated that she met [REDACTED], who was selling the high-performance car for a friend. Mrs Smith travelled in the car with [REDACTED] and the three pupils in the back of the vehicle. Mrs Smith then got into the driver's seat and drove one minute down the road, back to the minibus to pick up Individual B. Mrs Smith then drove up and down the road three times, with each pupil taking it in turns to be in the front. Mrs Smith stated that she never went over 70mph. Mrs Smith believed that, as the car in question was an Audi RS3 and can reach 0-60mph within 4.2 seconds, it would seem a lot faster than an average car.

The panel considered the witness statement and oral evidence of Witness E. Witness E confirmed that Mrs Smith was adamant during the Agency management investigation that she drove at the speed limits as the conditions were damp from the rain.

The panel considered the witness statement of Individual B.

The panel noted that it was not disputed that Individual B attended the trip on 25 June 2019 and was present in the high-performance car. Individual B stated that they were told by Witness D during the morning handover meeting that they would accompany Mrs Smith on the trip planned for that day. Individual B stated that during the journey, Mrs Smith dropped them off and told them to wait for Mrs Smith and the pupils to return. Mrs Smith returned around five minutes later in a white Audi RS3, and Individual B got into the back of the car behind the driver's seat. Individual B stated that Mrs Smith drove down long winding country roads and sped considerably. Individual B recalled they travelled above 100 mph.

Individual B stated that they had told Mrs Smith to slow down and that it was not safe. Mrs Smith laughed. She recalled noticing that Pupil B had their mobile phone out during the car journey but did not realise that they were video recording at the time. Individual B

stated she later saw the video that Pupil B had taken whilst in the car and believed the speed to be around 101mph.

The panel noted the content of Individual B's contemporaneous handwritten and typed notes of the trip on 25 June 2019. The panel noted that the evidence of Individual B was consistent with that given by others, and contemporaneous documentary evidence contained in the bundle of documents.

The panel also considered the witness statement and oral evidence of Witness D. Witness D stated that at the end of the day on 25 June 2019, Individual B approached them and disclosed that Mrs Smith had driven at over 100mph on wet country lanes.

The panel considered the witness statement and oral evidence of Witness A. They stated that during a lesson in or around July 2019, Pupil B was on their phone and showed her a video. In the video Witness A saw the interior of a car which they observed was moving extremely fast due to the passing trees from outside the window. Witness A stated that when the video panned round it showed the speedometer at 102mph. Witness A explained they could not see who was driving but saw a glimpse of a feminine hand on the wheel. The panel noted Witness A's oral evidence that they could not be 100% sure Mrs Smith was the driver from the video. However, they thought they recognised Mrs Smith as the driver in the video because the driver was wearing distinctive rings and nail varnish which were normally worn by Mrs Smith. Witness A stated that Pupil B told them that he had taken the video when they went out with Mrs Smith.

The panel noted the content of an email sent by Witness A to Individuals C and D on 22 July 2019 setting out her observations on the video made by Pupil B. In the email, Witness A reports Mrs Smith was driving the car and speaking about how fast the car goes. Witness A acknowledged in the email that she cannot 100% state what was said as the video was very noisy. Witness A stated in the email that the video panned round and showed the speedometer which registered 102 mph.

The panel noted the interview notes of meetings held with Pupils A, B and C following the trip. Whilst Pupils A and B stated they were not aware of the speed of the car, Pupil C is recorded as saying "*I don't know. She was going too fast and [Individual B] asked her to slow down*".

The panel considered that a teacher taking pupils in a car and recklessly speeding amounted to unprofessional behaviour.

The panel assessed the weight and reliability of the evidence, and on balance of probabilities, the panel found the allegation proved.

The panel found the facts of allegation 1 proved.

**2. You failed to obtain appropriate permission and/or complete the required risk assessments prior to taking one or more pupils on the field trip on 25 June 2019.**

The panel noted Mrs Smith denied the allegation.

The panel noted Mrs Smith's written statements dated 4 July 2019, 30 January 2020 and 15 April 2021. Mrs Smith stated that two handover meetings took place prior to the trip on 25 June 2019. Mrs Smith's evidence was that, during the handover meeting on 24 June 2019, she informed the staff at the School what was planned for 25 June 2019. Mrs Smith stated that senior members of staff, including Witness D, were present during these meetings.

Mrs Smith stated that she was not expected to carry out a risk assessment herself but the actions she was expected to carry out on the trip included the need to make an entry at the start of the trip in the vehicle check out book and to obtain permission from a senior member of staff. Mrs Smith stated that she completed the entry in the vehicle check out book on the morning of the 25 June 2019. In addition, Mrs Smith asserted that permission was granted verbally by Witness D on 24 June 2019 and again on the morning of the 25 June 2019 to take the pupils out in the car.

The panel noted the photographs of pupils provided by the TRA and Mrs Smith on trips to car dealerships, showing them sitting in stationary cars and in the vicinity of the dealership. The panel noted none of the photographs showed pupils out on test drives.

The panel considered the witness statement and oral evidence of Witness C. Witness C stated that she was aware of similar trips Mrs Smith had previously arranged which would involve pupils visiting a garage to look at cars and sitting in them whilst the cars were stationary. Witness C explained that, when trips were planned by staff, they would discuss the logistics during handover meetings. During such meetings, Witness C or Witness D would assess the risk and approve the trips if they were deemed appropriate.

Witness C confirmed that under no circumstances would the School be in a position to arrange for any pupils to participate in a test drive with a high-performance car and this

would not have been something the School would ever permit. No written risk assessment was completed for a trip of this nature prior to the trip taking place on 25 June 2019. Witness C stated that Mrs Smith claimed that her insurance covered the high-performance car but confirmed that this insurance documentation was not provided.

Witness C stated that Mrs Smith was deployed by the Agency, the School would expect that their agency staff have undertaken the relevant training through their own employer. Witness C stated that they thought Mrs Smith had received training from the Agency.

Witness C stated there was no existing risk assessment for a car test drive, and one was not completed prior to the trip on 25 June 2019 as it was not planned, and not sanctioned by the School. Witness C stated that the School had generic risk assessments which covered certain activities and all staff had to do to complete these was fill in the pupils and staff taking part in the activity to cover medical, contact and out of school fire regulations. The panel noted the oral evidence of Witness C who confirmed it was the responsibility of the teacher to complete the 'front' sheet of the risk assessment with these details.

The panel also considered the witness statement and oral evidence of Witness D. Witness D stated that they were aware that Mrs Smith had taken pupils to a dealership garage previously to look at stationary cars but was never aware that they also undertook a test drive as part of the visit.

The panel noted that both Individuals C and D were clear in their oral evidence that they would not authorise or approve pupils to be taken out on a test drive. They were not aware of Mrs Smith having taken pupils out on a previous occasion in an Audi RS6.

Witness D was made aware by the Agency that Mrs Smith claimed that the test drive was part of the original plan. However, Witness D spoke to Mrs Smith's colleague, Individual F, who had originally planned to assist the trip, who contradicted this claim.

The panel noted that the colleague, Individual F, provided a statement to Mrs Smith on 20 March 2021. They stated that Mrs Smith mentioned in the end of day briefing on 25 June 2019, that she was taking a group of pupils for a test drive in an Audi RS3 and asked the colleague, Individual F, if they would go with her. The panel noted that the statement did not address whether Mrs Smith informed a member of the School's leadership team about the test drive. The panel treated the hearsay evidence with caution and concluded that it should be given limited weight.

The panel considered the witness statement and oral evidence of Witness E. Witness E confirmed that when at the Agency, Mrs Smith did not receive any formal training, but confirmed that she did hold QTLS.

The panel concluded, on balance of probabilities, that Mrs Smith failed to obtain appropriate permission for the field trip on 25 June 2019.

The panel was satisfied on the evidence that Mrs Smith was not responsible for completing the risk assessment for field trips. However, the panel considered that on Mrs Smith's own evidence and as a qualified teacher, that she was aware of her responsibility to contribute to the risk assessment process by providing full and accurate information about the nature of her intended field trip on 25 June 2019. The panel considered that the evidence demonstrated that Mrs Smith failed to provide the School with an accurate description of the field trip by failing to inform them of the test drive in a high-performance car.

The panel considered the available evidence and concluded, on the balance of probabilities, that Mrs Smith failed to complete the required risk assessment by not providing full and accurate information to the School about the field trip on 25 June 2019.

The panel found the facts of allegation 2 proved.

**3. Your conduct as may be found proven at Allegation 1 and/or 2 amounted to failing to safeguard pupils and/or exposing pupils to the risk of harm.**

The panel noted Mrs Smith denied the allegation.

Having considered all the evidence before it, the panel was satisfied that Mrs Smith's actions amounted to failing to safeguard pupils and exposing them to the risk of harm.

The panel noted the evidence of the TRA's witnesses that Pupils A, B, and C [REDACTED].

The panel considered the evidence before it which confirmed that Mrs Smith had not followed the correct safeguarding procedures in that she had failed to obtain permission for the field trip and she failed to safeguard pupils once they were in the car by significantly exceeding speed limits in poor weather conditions.

The panel paid particular attention to the fact that Mrs Smith took the pupils out on a field trip without sharing the full details with the School and therefore preventing it from accurately assessing the risk of the trip.

The panel found the facts of allegation 3 proved.

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

Having found all 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 Smith, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mrs Smith 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
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position.
  - 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 the conduct of Mrs Smith amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. In particular, the panel noted that she had taken [REDACTED] pupils on a field trip without the appropriate permission from the School or their parents and driven at around 100 mph placing the pupils and her colleague at serious risk of harm.

The panel also considered whether Mrs Smith’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.



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, as the panel concluded that each of the allegations 1, 2 and 3 based on the particulars found proved in respect of each allegation, amounted to unacceptable professional conduct, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

Accordingly, the panel was satisfied that Mrs Smith 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 panel considered that Mrs Smith's conduct on the field trip, while acting *in loco parentis*, risked setting unacceptable standards of behaviour for [REDACTED] children leading them to believe it was acceptable to break the national speed limit and/or drive in a reckless manner.

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 considered that the public would expect the safeguarding of pupils to be of paramount importance to teachers and would be shocked by a teacher driving at excessive speeds with pupils in a car.

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

Having found the facts of allegations 1, 2 and 3 proved, the panel further found that Mrs Smith'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 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;
- that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mrs Smith which involved her failure to:

- obtain permission for the field trip in a high-performance car;
- safeguard pupils once they were in the car by significantly exceeding speed limits in poor weather conditions;
- disclose full and accurate details of the trip preventing the School from completing a risk assessment;

there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Smith 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 Mrs Smith was outside that which could reasonably be tolerated.

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 Smith. 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 Smith. 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;
- abuse of position or trust (particularly involving pupils); and
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE).

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 Mrs Smith's actions were not deliberate. There was no evidence to suggest that Mrs Smith was acting under duress.

The panel considered that there was a lack of insight and remorse on the part of Mrs Smith. There was no evidence submitted to show that she understood the severity of her actions or the potential consequences of driving at around 100 mph with pupils in a car without the knowledge of the School or their parents.

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

The panel noted that within the TRA referral form, dated 26 September 2019, the School confirmed that Mrs Smith had not been subject to any previous misconduct and that she "*has fantastic references and Denby Grange has always spoken very highly about her ability and professionalism.*"

The panel also noted that in the witness statement of Witness E, it was stated that Mrs Smith had a really good conduct record and reputation as a teacher.

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 Mrs Smith 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 Mrs Smith. The seriousness of her actions, as an experienced teacher, failing to safeguard pupils, and exposing pupils, her colleague, and the public to risk of serious harm, was a significant factor in forming that opinion. 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 Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel found none of these behaviours to be relevant.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found none of these behaviours to be relevant.

The panel decided that the findings indicated a situation in which a review period of three years would be appropriate and proportionate. This would afford Mrs Smith the opportunity to reflect on her conduct and develop the necessary insight and remorse to mitigate against future repetition of the behaviour.

## **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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mrs Smith should be the subject of a prohibition order, with a review period of three years.

In particular, the panel has found that Mrs Smith 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
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
  - 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 the conduct of Mrs Smith, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

The panel finds that the conduct of Mrs Smith fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include a failure to obtain permission for a trip in a high performance car, failure to safeguard pupils in the car and failure to disclose full details of the trip preventing the school from completing a risk assessment.

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 Mrs Smith, 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/safeguard pupils. The panel has observed, "The panel considered the evidence before it which confirmed that Mrs Smith had not followed the correct safeguarding procedures in that she had failed to obtain permission for the field trip and she failed to safeguard pupils once they were in the car by significantly exceeding speed limits in poor

weather conditions.” 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, “The panel considered that there was a lack of insight and remorse on the part of Mrs Smith. There was no evidence submitted to show that she understood the severity of her actions or the potential consequences of driving at around 100 mph with pupils in a car without the knowledge of the School or their parents.” 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 Mrs Smith was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding involving a failure to safeguard pupils 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 Mrs Smith herself and the panel comment “No evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mrs Smith contributed significantly to the education sector.” I have also noted that the panel made reference to a number of positive witness statements, related to Mrs Smith’s ability, professionalism and good conduct as a teacher.

A prohibition order would prevent Mrs Smith 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 lack of insight or remorse. The panel has said, “The panel took into account the way the

teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave. The panel considered that Mrs Smith's conduct on the field trip, while acting *in loco parentis*, risked setting unacceptable standards of behaviour for [REDACTED] children leading them to believe it was acceptable to break the national speed limit and/or drive in a reckless manner."

I have also placed considerable weight on the finding that "The panel decided that the public interest considerations outweighed the interests of Mrs Smith. The seriousness of her actions, as an experienced teacher, failing to safeguard pupils, and exposing pupils, her colleague, and the public to risk of serious harm, was a significant factor in forming that opinion."

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Smith 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 a 3 year review period.

I have considered the panel's comments "The panel decided that the findings indicated a situation in which a review period of three years would be appropriate and proportionate. This would afford Mrs Smith the opportunity to reflect on her conduct and develop the necessary insight and remorse to mitigate against future repetition of the behaviour."

In this case, factors mean that allowing a lesser review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings, failing to safeguard pupils and the lack of either insight or remorse.

I consider therefore that a three review period is required to satisfy the maintenance of public confidence in the profession.

**This means that Mrs Cheryl Smith is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** She may apply for the prohibition order to be set aside, but not until 11 March 2027, 3 years from the date of this order at the earliest. This is not an

automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Smith remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'S Buxcey', with a stylized flourish at the end.

**Decision maker: Sarah Buxcey**

**Date: 12 March 2024**

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