



Teaching
Regulation
Agency

Mrs Amanda McGuinness: Professional conduct panel hearing outcome

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

March 2024

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

Teacher:	Mrs Amanda McGuinness
Teacher ref number:	1168460
Teacher date of birth:	05 June 1989
TRA reference:	0018460
Date of determination:	28 March 2024
Former employer:	The Castle School

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually via Microsoft Teams on 25 March to 28 March 2024, to consider the conjoined case of Mrs Amanda McGuinness and [REDACTED]. This decision relates to Mrs McGuinness.

The panel members were Mr Ian Hylan (teacher panellist – in the chair), Ms Janette McCormick (lay panellist) and Mrs Joanna Hurren (teacher panellist).

The legal adviser to the panel was Ms Patricia D’Souza of Blake Morgan LLP, solicitors.

The presenting officer for the TRA was Ms Sherelle Appleby of Browne Jacobson solicitors.

[REDACTED] was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations against Mrs McGuinness in the Notice of Proceedings dated 12 January 2024 as amended in the course of the hearing, to align with the wording of the allegations contained in the signed Notice of Response form dated 22 March 2024.

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

1. During the 2018/2019 academic year in respect of the Food NEA she caused and/or permitted and/or failed to prevent the following:
 - a. Previously prepared food to be used/brought/made to enhance the pupils' assessments;
 - b. Altering/amending/adding/re-presenting Pupil A and/or Pupil B's work;
 - c. Amending one or more pupils' mark sheets to reflect alteration made to their work by her and/or her colleague(s);
 - d. Amending one or more pupils' time sheets to reflect the alterations made to their work by her and/or her colleague(s);
2. Her conduct as may be found proven at Allegation 1 above lacked integrity and/or was dishonest in that she sought to assist pupils in obtaining marks higher than their own work merited.

The email from Mrs McGuinness' union representative to the TRA's representatives of 12 March 2024 confirmed that Mrs McGuinness wished to admit the allegations against her as reflected in the signed Notice of Response Form dated 22 March 2024 in full. The panel also noted that Mrs McGuinness also admitted that her conduct amounted to unacceptable professional misconduct and/or conduct which may bring the profession into disrepute.

Preliminary applications

Proceeding in absence

The panel considered an application from the presenting officer to proceed in the absence of [REDACTED] and Mrs McGuinness. The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it.

The panel was, first, satisfied that each Notice of Proceedings for [REDACTED] and Mrs McGuinness had been sent in accordance with the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018 ("the Procedures") and that the requirements for service had been satisfied.

The panel also had regard to email correspondence received by the representatives of the TRA from [REDACTED] on 19 March 2024 in which she stated that she was unable to attend as she could not have time off from my current place of work and could not afford to do so. Also, as it is the school holidays, she also had to take care of her [REDACTED]. The Union representative for Mrs McGuinness indicated that she admitted the allegations and did not wish to participate in a formal hearing.

The presenting officer submitted that the TRA's Notice of Proceedings were sent to [REDACTED] and Mrs McGuinness on 12 January 2024. Neither [REDACTED] nor Mrs McGuinness have requested alternative dates for this hearing in order to attend.

The panel considered that both [REDACTED] and Mrs McGuinness have had the opportunity to respond to the documents they have received and email correspondence had been received from [REDACTED], and from Mrs McGuinness' union representative on her behalf.

The panel went on to consider whether to proceed in [REDACTED]'s absence or to adjourn, in accordance with Rule 4.29 of the Teacher misconduct: Disciplinary procedures for the teaching profession 2018 ("the Procedures"). The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that [REDACTED] and Mrs McGuinness were not in attendance and would not be represented at this hearing, should it proceed, and the extent of the disadvantage to both of them as a consequence.

On balance, the panel decided that the hearing should continue in the absence of [REDACTED] and Mrs McGuinness for the following reasons in particular:

- The panel was satisfied that [REDACTED]'s and Mrs McGuinness' absence was voluntary. They were aware of this hearing taking place today given the correspondence that had been received either direct from them or on their behalf and so they had waived their right to attend. There was no indication either teacher were unfit to attend.
- There was also no indication that either [REDACTED] or Mrs McGuinness might attend at a future date. As such, the panel concluded that no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time including the interests of any alleged victims of [REDACTED]'s and Mrs McGuinness' conduct.

- There is an obligation on all professionals who are subject to a regulatory regime to engage with their regulator.
- The risk of reaching the wrong conclusion as a result of not being able to hear from [REDACTED] and Mrs McGuinness was limited given that the panel would take steps to ensure that it anticipated any relevant lines of defence on their behalf. The panel noted that it had received mitigating evidence in its papers on behalf of both teachers, there was detailed evidence within the School's investigation, and character evidence. The panel considered that the documents contained both [REDACTED] and Mrs McGuinness' "voices".
- The panel considered both teachers had engaged in some way in these proceedings and so the panel would not draw any adverse inference by their not being present.
- The panel was also mindful that the allegations relate to five or more years ago and delaying this hearing could place additional strain on all parties, including the teachers and the witnesses, who are due to give oral evidence in this hearing.

Having decided it was appropriate to proceed, the panel would strive to ensure that the proceedings were as fair as possible and would take steps on [REDACTED] and Mrs McGuinness' behalf to probe the evidence submitted by the TRA. No opposition has been received from either teacher about this application and the presenting officer invited the panel to consider this application as unopposed. Overall, the panel determined to proceed in absence.

Application to hear the entire hearing in private

The panel noted Mrs McGuinness' request, via her union representative, in correspondence to the TRA dated 12 March 2024, for this hearing to be heard in private. The only reason provided for this request was that Mrs McGuinness has not been a part of the teaching profession for some time.

The panel was mindful of the power under paragraph 4.57 of the Procedures that enables the panel to hear all or part of the hearing in private session, if it appears necessary in the interests of justice.

The presenting officer invited the panel to reject Mrs McGuinness' application for the entire hearing to be in private. However, she submitted that details relating to Mrs McGuinness' personal circumstances as to why she was not at work at the relevant time, and the health circumstances of Witness A, should not be referred to in public session.

The panel noted that the principle of open justice is of paramount importance and derogations from it can only be justified when strictly necessary. There has to be a good reason for the claim of privacy. Any other approach would result in unacceptable inroads into the general rule that hearings are to be held in public.

In general, parties and witnesses have to accept the embarrassment and damage to their reputation which can be inherent in being involved. The protection to which they are entitled is normally provided by a decision delivered in public which will refute unfounded allegations.

The panel determined that Mrs McGuinness had failed to demonstrate exactly why it was necessary to hold the entire hearing in private, other than her feeling uncomfortable at this. The panel noted that being concerned with the risk of adverse publicity will rarely, if ever suffice for an application for privacy. The fact that a hearing in public may be painful or humiliating is not normally a proper basis for departing from the open justice principle. Mrs McGuinness' application for the entire hearing to be in private was therefore rejected.

The panel also considered that Mrs McGuinness' reasons for not being at the School for a certain time period was not private information. The panel considered that not referring to her maternity leave would present an unacceptable inroad into the open justice principle.

The panel determined that it would not be appropriate to hear submissions from any of the parties about health matters, particularly in relation to Witness A, in public session and therefore determined it would notify the parties of when the hearing may go into private session for this purpose only. When in private session any member of the public in attendance would need to leave if private matters were discussed.

Anonymisation of the School's name

The presenting officer informed the panel that the relevant School has requested that its name is anonymised in the published decision made by the panel and during the hearing. The School's request for anonymisation related to the fact that [REDACTED] currently attends the School and she would be vulnerable to being "targeted for questions and persecution from her peers" if the School's name was to be "picked up" by the local media. Also, as the original concern relating to the Food NEA assessment was raised via parents on social media, it was considered by the School that individual pupils and their families were identifiable and known as whistleblowers and those families would feel significant pressure following their disclosure and would be distressed if this led to persecution.

Paragraph 4.60 of the Procedures provides that a panel may, if it considers it to be in the interests of justice or not contrary to the public interest to do so, direct that the name and identity of a school will not be disclosed during the hearing or at all.

The School indicated in correspondence to the TRA that many of the pupils affected by the alleged alteration of their work received lower grades than anticipated and may have prevented their progression and this has led to the parents of all pupils being affected.

The presenting officer submitted that Mrs McGuinness had seen the School's request for anonymity.

In further email correspondence to the TRA from [REDACTED] dated 19 March 2024, she stated that her [REDACTED] had not suffered any repercussions as a result of this matter and she was surprised at the School's request for anonymity. [REDACTED] also considered that the relevant pupils affected by the alleged actions of herself and Mrs McGuinness are over 21 years old and did not require protection. The panel determined that [REDACTED] objected to this application.

The panel determined that it was not in the interests of justice and would be contrary to the public interest to anonymise the name of the School during this hearing and in its published decision. The panel was not satisfied the School had sufficiently demonstrated or justified why their privacy needed to be protected. The panel considered there was no justification as to why the open justice principle should be contravened. The panel therefore rejected the application to anonymise the name of the School.

Application to admit additional documentation

The presenting officer submitted that the TRA opposes a bundle of unagreed documents, provided by [REDACTED] on 13 March 2024, being admitted before the panel. The presenting officer submitted that this bundle of documents does not relate to the allegations. The presenting officer submitted that [REDACTED] was made aware of the TRA's opposition to the admission of these documents by email on 14 March 2024. The documents also contain sensitive information relating to the health of Witness A and the presenting officer made [REDACTED] aware that these documents would not be included in the finalised hearing bundle. The presenting officer submitted that she told [REDACTED] to outline in further correspondence her reasons for wishing to rely on these documents in order that this could be addressed at the start of this hearing. The presenting officer submitted that a response had not been received from [REDACTED].

The panel noted that in the unagreed bundle of documents there are [REDACTED].

The presenting officer was not able to confirm that the unagreed bundle, submitted by [REDACTED], had been provided to Mrs McGuinness. Therefore, Mrs McGuinness had not been able to comment on these documents.

The panel considered that the unagreed bundle of documents was not relevant to the allegations relating to [REDACTED]. [REDACTED] had not responded to the presenting officer to provide submissions as to why they were relevant. The panel decided not to admit them as they are not relevant. Taking all of this together, the panel determined to reject the admission of the unagreed bundle of documents.

Application to amend allegations against Mrs McGuinness

The presenting officer made an application to amend the allegations against Mrs McGuinness. The presenting officer submitted that the Notice of Proceedings dated 12 January 2024 sent to Mrs McGuinness contained an inaccurate version of the allegations she is being asked to meet. The presenting officer submitted that the redacted Notice of Response form contains the number of allegations being pursued against Mrs McGuinness. The panel noted that Mrs McGuinness had completed and signed the Notice of Response form and therefore she was aware of the amended number of allegations against her.

The panel noted that there is only two allegations referred to in the Notice of Response form and as a result, an amendment was required to the stem of allegation 2 as it referred to conduct in both of allegations 1 and/or 2. The presenting officer clarified that the words "and/or 2" should be removed.

The panel considered it was appropriate, necessary and in the interests of justice, to accept the amendment application made by the presenting officer. These amendments did not prejudice Mrs McGuinness in any way, as it simply ensured that the panel only considered relevant allegations which were being pursued by the TRA. The panel did not consider the proposed amendments altered the substance of the allegations or resulted in new factual particulars being alleged. It simply ensured that allegations which the TRA no longer wished to pursue were not considered by the panel.

The panel determined the allegations against Mrs McGuinness should therefore read as follows:

1. During the 2018/2019 academic year in respect of the Food NEA you caused and/or permitted and/or failed to prevent the following:
 - a. Previously prepared food to be used/brought/made to enhance the pupils' assessments;
 - b. Altering/amending/adding re-presenting Pupil A and/or Pupil B's work;
 - c. Amending one or more pupils' mark sheets to reflect alterations made to their work by you and/or your colleague(s);
 - d. Amending one or more pupils' time sheets to reflect the alterations made to their work by you and/or your colleague(s);
2. You conduct as may be found proven at Allegation 1 above lacked integrity and/or was dishonest in that she sought to assist pupils in obtaining marks higher than their own work merited.

Summary of evidence

Documents

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

Section 2: Notice of proceedings– pages 10 to 35

Section 2: Anonymised pupil list– pages 37

Section 3: TRA documents – pages 39 to 459

Section 4: TRA witness statements – pages 461 to 482

Section 5: Teacher documents (Beale) – pages 484 to 748

Section 6: Teacher documents (McGuinness) – pages 750 to 751

Section 7: AM signed notice of response form– pages 752 to 756

Section 6: AM statement of mitigation – page 757

Section 6: Character statement– pages 758 to 759

Section 6: Email correspondence from [REDACTED] and the TRA – pages 760 to 764

Section 6: JH signed statement – page 765

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

Witnesses

The panel heard oral evidence from the following called by the presenting officer:

- Witness A – [REDACTED]
- Witness B – [REDACTED]
- Witness C – [REDACTED]

Decision and reasons

The panel's decision and reasons are as follows:

The panel carefully considered the case and reached a decision.

The panel proceeded to consider the case carefully, having read all of the documents, and reached a decision. It accepted the legal advice provided.

Mrs McGuinness commenced working at the Castle School (“the School”) from 01 September 2014. She was the head of the Food department until February 2019. During Mrs McGuinness’ maternity leave in the academic year 2017/18, [REDACTED] became the [REDACTED]. Mrs McGuinness took over the head of department role again from the academic year 2018/19. On 7 February 2019, the School were advised of a concern regarding the Food Non-exam assessment (“NEA”) and pupils’ completed dishes being altered. Following this the School contacted the Joint Council for Qualifications (“JCQ”) and advised that potential malpractice had taken place in relation to the Food NEA assessment. Both Mrs McGuinness and [REDACTED] were immediately suspended. Mrs McGuinness resigned from the School on 28 February 2019. A School disciplinary hearing took place on 13 March 2019 which found that Mrs McGuinness had committed malpractice.

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:

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

- 1. During the 2018/2019 academic year in respect of the Food NEA you caused and/or permitted and/or failed to prevent the following:**
 - a. Previously prepared food to be used/brought/made to enhance the pupils’ assessments;**

Background

Mrs McGuinness was the head of the Food department at the School. In 2017/18, [REDACTED] was the [REDACTED] covering Mrs McGuinness’ maternity absence. In the 2018/19 academic year, Mrs McGuinness had returned from maternity leave and returned to the role as head of department. [REDACTED] then reverted to being a classroom teacher within the Food department.

In her opening statement the presenting officer confirmed that the Food Non-examined assessment (“NEA”) is a practical assessment whereby students prepare three dishes and images are taken of the dishes after completion, prior to being submitted for marking. Witness C told the panel, that there were two practical assessments that make up the NEA. Pupils may, for example, be asked to investigate the role of gluten in dishes and undertake experiments for one assessment, and for the other NEA assessment, pupils

had to make dishes that accorded with a brief such as street food or fine dining. This case relates to the second assessment only.

Witness B informed the panel, during her oral evidence, that pupils would have to create a storyboard for their practical assignment, research recipes/dishes, write up that research and obtain ingredients themselves. In their written work, the pupils had to clearly set out in a time plan how the dishes were to be prepared and if anything “was out of step” with how they had anticipated they would be prepared, this would need to be reflected in their written work, after the practical work had been completed. The practical assessment was when pupils would make the dishes in School. The evaluation and any additional elements would need to reflect any additions made to pupils’ work. If the “time plan” did not reflect the dishes presented then it would be clear something “had been changed”.

Further, Witness B’s oral evidence was that after the pupils had made their dishes in the NEA Food assignment, as they had been cooking for around 3 hours, they would leave the room and their dishes. Photographs were then taken of the food to facilitate the marking process and to form part of the pupils’ evaluation.

Mrs McGuinness was not present during the hearing. However, the panel did take into account the correspondence in the bundle from her union representative, her mitigation statement and character evidence submitted on her behalf.

Witness A’s role

In her oral evidence, Witness A confirmed that she was employed as a Food Technology technician at the School from 2015. Witness A had never worked in a school before and so was unsure whether amendments could be made to pupils’ work during assessment. Witness A did not receive any formal training for her role and so she did not fully understand what the job entailed or the limits of what she was allowed to do in assessments. Witness A informed the panel that no guidance was given to her by her line manager, Mrs McGuinness, who was the head of the Food department at the School, at the time.

Witness A told the panel that in her first year at the School, Mrs McGuinness asked her to assist a pupil with an afternoon tea assignment and make their food “look nice” or “look like this” as they “need to get an A”. Mrs McGuinness informed Witness A that it was her role to help the pupil make the food look “nice”.

In her oral evidence, Witness A stated that she followed the instructions of either Mrs McGuinness or [REDACTED]. Witness A told the panel that as she was a people pleaser, she explained that she did not consider she could challenge any of the instructions provided to her by either Mrs McGuinness or [REDACTED], even though “in her gut” she considered that assisting the pupils or making items to be used in the presentation of

their work, was not appropriate. When questioned by the panel, Witness A stated that she was not aware of the School's processes to report any concerns.

Witness B's role

In her oral evidence, Witness B confirmed to the panel that she joined the School in January 2018, when Mrs McGuinness was on maternity leave, and she took over [REDACTED]'s role as a [REDACTED]. [REDACTED] then became the [REDACTED]. Witness B conducted the Food NEA assessment for her class in the 2017/18 academic year and worked alongside [REDACTED] and Witness A.

Previously prepared food items

In her statement, Witness A stated that Mrs McGuinness would always bring in things from home to add to pupils' work for assessments, and when [REDACTED] joined the School she did the same. In her oral evidence, she informed the panel that Mrs McGuinness had made and brought in ginger biscuits and [REDACTED] had made tiny meringues and chocolate decorations, some of which would demonstrate a high level of skill within the assessment criteria. Witness A could recall that she was asked to make naan breads on behalf of pupils. Mrs McGuinness had told her to make batches of meringues or naan breads in case they were needed.

During the hearing, the panel had regard to a shopping list for the 2018/19 NEA assessment which Witness A stated in her oral evidence was created by Mrs McGuinness. Witness A's oral evidence was that this list contained some of Witness A's handwriting in addition to the handwriting of others. At the end of this shopping list was a heading "making", which listed food items that pupils were making and which Witness A was asked to have ready prepared, in case a pupil's own work was not of a sufficiently high standard. In her oral evidence, Witness A stated she and Mrs McGuinness would work "together" to make the food look like "how we wanted it to look". In the School's investigation, Mrs McGuinness confirmed that this shopping list was created by her.

Witness B's oral evidence was that if a pupil was making a dish that required a culture, for example a sourdough culture, she was asked to prepare this in advance, and she had challenged [REDACTED] about this. She stated that she would prepare the culture at home as that can take several days to develop.

The panel noted from the record of Witness A's interview with the School, in the bundle that Witness A told Witness C, the investigating officer, that making food to add to pupils' NEA work took place both in the 2017/18 and 2018/19 academic year.

Further in her statement, Witness A stated that before the NEA assessment in both the 2017/18 and in the 2018/19 academic years, pupils would bring in items that they had practised in their trials for their dishes. These would be frozen in case they were needed to better demonstrate the pupils' work. The panel noted from the record of the

investigation meeting between Witness A and Witness C, that [REDACTED] asked her to change the burger bun on behalf of a pupil, and replace it with one from the freezer. Witness A sought to question this decision but [REDACTED] told Witness A that this pupil needed to get a high mark and this pupil was a High Attaining Pupil (“HAP”). Witness C’s investigation report reflects that when Witness C inspected the fridges in each of [REDACTED]’s and Mrs McGuinness’ teaching room, these contained items that pupils had previously made with the “intent to use them, if required in the practical assessment”.

The minutes of Witness A’s interview with Witness C on 25 February 2019, reflect Witness A stating that chocolate decorations which were in the fridge had been made by [REDACTED] for this purpose. It was not the case that these decorations were left over from a presentation evening as claimed by [REDACTED]. This was corroborated by the content of Mrs McGuinness’ interview with Witness C in which she stated that [REDACTED] had some chocolate decorations in her room and that Mrs McGuinness had also made some decorations.

Enhance pupils’ assignments

Witness A admitted to the panel that she had made changes to specific pupils’ dishes as instructed by either Mrs McGuinness (before and after Mrs McGuinness was on maternity leave) or [REDACTED]. Witness A told the panel that after the pupils had completed their dishes, [REDACTED] instructed her to make changes so that the food looked perfect and demonstrated a higher level of skill. [REDACTED] then took pictures of the altered dishes.

The panel found the oral evidence of all of the TRA’s witnesses credible.

The panel noted that Mrs McGuinness had admitted this allegation. At this point in time, the panel noted that Mrs McGuinness was the head of department and she had previously prepared food such as ginger biscuits to add to pupils’ work. Witness A in particular, made clear to the panel that Mrs McGuinness had requested alterations to pupils’ completed dishes for some time. Witness A’s statement reflects that amendments to the pupils’ work was “standard practice” and things had been run in that way since she started at the School.

The investigation report within the bundle, reflects Mrs McGuinness stating to Witness C that Mrs McGuinness admitted that items were stored, having been made by staff or pupils with the intent to add them to pupils’ work, which she agreed was outside the NEA assessment guidance.

The panel determined that it was more likely than not, that during the 2018/2019 academic year, in respect of the Food NEA, Mrs McGuinness caused and/or permitted Witness A to prepare breads to be used to enhance pupils’ assessments. The panel also considered that Mrs McGuinness herself had failed to prevent this, as she herself made

food, such as ginger biscuits, and she permitted [REDACTED] to make chocolate decorations and mini meringues which Witness A told the panel were used as an addition to enhance multiple pupils' assessments. The panel therefore found allegation 1(a) proven.

b. Altering/amending/adding/re-presenting Pupil A and/or Pupil B's work;

Pupil A and Pupil B were both pupils taught by [REDACTED] and not by Mrs McGuinness.

As head of department, Mrs McGuinness was responsible for ensuring compliance with assessment guidance in Food Technology. Whilst the pupils were completing the assessment, the teachers stayed in their classrooms to supervise the pupils based on the CCTV log in the bundle. Once the pupils had left, over the next 2.5 hours the teachers visited each other's rooms. It was during this time, that changes were made to Pupil A's and Pupil B's dishes. Mrs McGuinness should have been supervising the recording of pupils' work when she entered [REDACTED] room on four occasions.

The panel had regard to a Facebook message posted on or around 6 February 2019 which contained an original colour photograph of Pupil A's food as Pupil A had left it in the assessment room. The Facebook post was made by Pupil A's parent which stated that Pupil A had made the food for her NEA assessment that day and then returned "2 hrs" later to find that her teacher had added extra components to her dish and moved items around. This prompted the School's investigation.

The panel compared the picture contained in the Facebook post with the photo on the School's network submitted as part of the final assessment, which was in the bundle. The panel noted that Pupil A's lasagne is still within the tin foil, and the nachos were not in a box and did not have cheese on the top in Pupil A's photo. The dough balls did not appear in the same place either. These items had all been altered as reflected in the commentary contained within the Facebook post. There was also an extra pot of mayonnaise from the fridge which Witness A told the panel she had added chopped spring onions to.

In her interview with the School, Witness A stated that [REDACTED] asked Witness A to glaze and add chocolate piping to the pretzel created by Pupil B. The record of Witness A's interview with Witness C also stated that [REDACTED] also said that Pupil B's pasta looked awful and asked Witness A what she could do to make it look better. Upon Witness A suggesting deep frying the cannelloni pasta, [REDACTED] requested Witness A do this. Witness A also said, during her interview, that [REDACTED] also put Pupil B's tart in a box on the paper and made a sugar shard and added cream, and [REDACTED] put a dip on the salad.

The panel also had regard to the contemporaneous pupil accounts provided to Witness C. Witness C explained to the panel, during her oral evidence, that she spoke to the pupils and made notes of what the pupils told her (which is reflected in the bundle). Witness C did not consider it was reasonable or in the pupils' interests to reinterview any of the pupils in further stages of the School's investigation. The panel noted the pupils' accounts was hearsay evidence and would therefore attract less weight.

Pupil B stated to Witness C that when she went to collect her food "cream" had been added and that her teacher, [REDACTED], had changed it on Pupil B's food. Pupil A had told Witness C that she had seen what [REDACTED] had "done to" her food and it made her "angry because she did not come over to see if she could improve her grade before the end of the exam". Pupil A was "hurt" that [REDACTED] did not give her an opportunity to get a better mark in terms of what she should improve before the assessment.

During her investigation interview with the School on 1 March 2019, [REDACTED] stated she may not have asked Mrs McGuinness directly about representing pupils' work but she followed Mrs McGuinness' "leadership on this".

The panel noted from the investigation report prepared by Witness C, that Mrs McGuinness said that she felt that she was under pressure to match the performance of [REDACTED] Food NEA pupils from the previous year when she was on maternity leave. She explained to Witness C that she had 'overstepped the mark' and 'got carried away'. Mrs McGuinness further explained that no one had told her to make changes to pupils' completed dishes and she was aware these changes had been outside the assessment guidance for the Food NEA. The investigation report reflects Witness C sharing with Mrs McGuinness the notes of the interviews conducted with Pupil A and Pupil B which included their commentary on how their work had been re-presented, amended or altered. Mrs McGuinness reflected that changes had been made, some of which she was aware of, and that these were outside of the assessment guidance. Mrs McGuinness was shown photographs of the pupils' work from the NEA assessment in 2018/19. Mrs McGuinness identified that a substantial amount of re-presentation, addition, or amendment had been undertaken of which she was aware.

The panel accepted Mrs McGuinness' admission in relation to this allegation. Taking all of the evidence into account, including her admission, the panel found it was proven that for the 2018/19 academic year Mrs McGuinness had failed to prevent the alterations or changes to Pupil A and Pupil B's work that was made by either [REDACTED] or Witness A under [REDACTED]'s direction. As head of department it was Mrs McGuinness' responsibility to ensure that the assessment guidance for the NEA was followed by all staff including [REDACTED] and Witness A, which it was not. It was clear from the photographic evidence in the bundle that changes had been made to Pupil A's and Pupil B's dishes. Allegation 1(b) was therefore found proven on the balance of probabilities.

c. Amending one or more pupils' mark sheets to reflect alteration made to their work by you and/or your colleague(s);

Witness A's oral evidence was that she was not involved with the pupils' written work or mark sheets and so was unable to assist the panel with this particular allegation. In her interview with Witness C, Witness A stated that she went to a different room so as not to disturb Mrs McGuinness and [REDACTED] when marking.

The panel had regard to the *Assessment 2: The Food Preparation Assessment* document within the bundle which set out the Key information relating to the assessment. This included examples of dishes, the specific skills involved and the skill level criteria and marks for presentation. The panel considered that Mrs McGuinness would and should have been aware of this document and was responsible for its correct implementation. The focus of marks included both presentation and demonstration of skills.

Although Witness B was not at the School during the 2018/19 year, she told the panel about how marking was completed. Witness B stated that the NEA exam board have a clearly structured mark sheet which the Food teacher starts to complete based on observations whilst the pupils are cooking during their practical assignment. Witness B would record on the mark sheet whether the pupil had met certain criteria, including had they worked independently, or shown certain techniques such as knife skills. When questioned by the panel, Witness B was directed to the assessments grids used in the 2018/19 academic year and explained to the panel, how skills were assessed and banded accordingly to the complexity of the skills demonstrated.

The panel reviewed an example *GCSE Food Preparation and Nutrition 34* document in the bundle. This indicated that pupils were required to demonstrate appropriate use of 3 hours allowed for preparation, cooking and serving dishes to showcase their technical skills and candidates were expected to include photographic evidence of the final presented dishes.

Witness B further stated in her oral evidence that after annotating the scoring sheet and ticking off skills or things that the pupils had done, Witness B would then take photos of dishes completed by her pupils. After this, then the pupils were able to taste the food that had been prepared to be able to complete a sensory analysis document. Whilst the pupils were clearing up the food area, Witness B's oral evidence was that she would rank each candidate's completed dishes based on assessment criteria.

Further in her oral evidence, Witness B explained to the panel the moderation process that took place during the 2017/18 academic year. The moderation would take place

approximately four weeks after the practical assignment was completed. The photographs taken of each dish were used during the moderation process.

All of the pupils' work for the NEA was completed prior to moderation. Once the assessment was completed and the work marked then each teacher would swap their marking sheets with a colleague to see if they assigned the same grade. Witness B confirmed to the panel this this swapping of mark sheets did take place in relation to Witness B's pupils.

During her interview with Witness C, Mrs McGuinness explained her understanding of the mark scheme. She said that changing the presentation of pupils' work can have an impact on marks but not "huge" as it is use of "skills as well". However, "Changing the presentation would get them more marks". The panel noted from Mrs McGuinness' interview with Witness C, that Mrs McGuinness stated that she knew that [REDACTED] had made some spun sugar which would have been used to help Pupil B's marks.

When asked during her interview with Witness C, about the marking of a certain pupil's work, the panel noted that Mrs McGuinness stated that [REDACTED] made her feel bad that her pupil had not butchered the chicken which is why she added it to the mark sheet.

Mrs McGuinness admitted the factual particulars of this allegation. The panel considered that Mrs McGuinness herself had admitted during the course of the School's investigation that she had personally amended one or more pupils' mark sheets as a result of alterations that Mrs McGuinness had made to their dishes. The panel noted from the investigation minutes that Mrs McGuinness stated that she tried to mark pupils "less" if they had had any changes to their work.

The panel was satisfied that the TRA had discharged the burden of proof and that it was more likely than not that Mrs McGuinness caused, permitted and failed to prevent one or more pupils' mark sheets to reflect alterations made to their dishes by either her or one of her colleagues. Therefore, the panel found allegation 1(c) proven.

d. Amending one or more pupils' time sheets to reflect the alterations made to their work by you and/or your colleague(s);

Pupil A and Pupil B were both pupils taught by [REDACTED] and not by Mrs McGuinness.

The panel considered that as head of department, Mrs McGuinness was responsible for ensuring compliance with assessment guidance in Food Technology.

Witness A indicated to the panel that she was not involved in pupils' completion of the time sheets.

The panel had further regard to the time sheet completed by Pupil B in the academic year 2018/19 and the notes of her interview with Witness C. Pupil B told Witness C that [REDACTED] asked her to “change her time plan”, as [REDACTED] said she “changed items on her food”, and that she “needed to change her time plan”. Pupil B did not know why. Pupil B’s timeplan contains the following time entries which Pupil B added in order to justify the changes to her work undertaken by others:

- 11:23 – Pupil B would make caramel sugar work for the top;
- 11:45 – Pupil B would “make some icing...melt some chocolate, pipe onto the icing”;
- 11:50 – Pupil B would whisk double cream.

The panel noted the ingredient list prepared by Pupil B, contained in the bundle, which demonstrated that she was not originally intending to add cream or icing or chocolate piping to her pretzel as she did not have the ingredients for this. Witness A had told the panel that she was instructed to make icing and chocolate piping for Pupil B’s pretzel by [REDACTED].

The panel had regard to the *GCSE Food and Nutrition 38* marking guide for preparation and production of dishes. This reflects that marks are awarded for skills and presentation. It appeared to the panel that the better the presentation and the more skills that were demonstrated, the higher a pupil’s mark would be.

Mrs McGuinness admitted this allegation. The investigation report reflects Mrs McGuinness being aware of some of the changes made by [REDACTED] and Witness A to Pupil A’s and Pupil B’s completed dishes which were outside of the assessment guidance. Mrs McGuinness was able to identify that a substantial amount or re-presentation, addition, or amendment had been undertaken. It therefore follows, that Mrs McGuinness would have been aware that Pupil A and Pupil B at least would need to amend their time sheet, and in fact Pupil B did, as demonstrated above, as a result of the additions or amendments made to their dishes. As head of department Mrs McGuinness should have taken action to prevent her colleagues making changes to pupils’ dishes and therefore necessitating amendments by pupils to their time sheets. Mrs McGuinness failed to prevent this happening. On that basis, the panel found allegation 1(d) proven.

2. Your conduct as may be found proven at Allegation 1 above lacked integrity and/or was dishonest in that you sought to assist pupils in obtaining marks higher than their own work merited.

Allegation 1 relates to the 2018/19 academic year. The panel noted that Mrs McGuinness admitted allegation 2 overall in relation to the proven conduct established under allegation 1(a) to 1(d). It was necessary for the panel to consider dishonesty and lack of integrity in relation to all of the conduct found proven against Mrs McGuinness in relation to allegation 1(a) to 1(d).

Dishonesty

The panel applied the legal test for dishonesty, as laid down by the Supreme Court in *Ivey v Genting Casinos* [2017]. The panel first considered Mrs McGuinness' actual state of knowledge or belief as to the facts at the time of the conduct and then considered whether the conduct would be regarded as dishonest by the objective standards of ordinary decent people.

The panel recognised that there was no requirement that Mrs McGuinness must have appreciated at the time that her conduct was dishonest by those standards.

The panel had regard to the job description within the bundle. Mrs McGuinness was required to comply with the School's policies and procedures and the School's ethical code. Mrs McGuinness had been at the School since 2014 and had been head of department for some time. The panel would therefore expected her to be very familiar with the requirements for the NEA guidance.

Mrs McGuinness would have received training on how to undertake NEA assessments, and she would have been aware of the standards she was expected to uphold. Mrs McGuinness admitted during the School's investigation, that she knew what she and the other staff were doing in terms of altering pupils' work was wrong. Witness C's oral evidence was that Mrs McGuinness did not fully appreciate the impact or consequences of her actions.

The panel considered all the evidence presented demonstrated that Mrs McGuinness was well aware that she should not have instructed others to create food items to be used as part of a pupil's practical assessment or done so herself. The panel considered it was more likely than not, during the 2018/19 academic year, based on the oral evidence of Witness A, that Mrs McGuinness was well aware that making additions to pupils' work would lead to pupils gaining higher marks than their work merited. This then would have necessitated changes to the mark sheets by her and for pupils to have to amend their time sheets, otherwise it would have been obvious to the examination body that changes had been made, which was not pupils' own work.

The panel considered that as an experienced teacher and assessor, Mrs McGuinness should have known her actions were wrong. The panel found Mrs McGuinness' explanation that she felt under pressure to ensure that pupils attained marks that were consistent with those that pupils attained when [REDACTED] was acting head of department, unsatisfactory. The panel determined that she was aware her conduct was dishonest overall.

By the objective standards of ordinary decent people, Mrs McGuinness' actions as found proven at allegations 1(a) to 1(d) were dishonest.

Integrity

As regards lack of integrity, the panel took account of the decision of the Court of Appeal in *Wingate v SRA; SRA v Malins* [2018] EWCA Civ 366. It recognised that integrity denotes adherence to the standards of the profession. The panel therefore considered whether, by her actions, Mrs McGuinness failed to adhere to those standards.

The panel considered honesty and integrity are fundamental tenets of the teaching profession and Mrs McGuinness fell below these standards.

The panel noted that the GCSE Food and Nutrition Specification (“the Specification”) indicates that it is important non-examination assessments are rigorously monitored by centres to ensure that candidates’ work is their own. It states: “*Centres should monitor candidates’ work by:*

- *keeping a careful record of candidates’ progress during the timetabled sessions*
- *carefully considering whether the written evidence submitted is characteristic of the candidate’s ability/attainment*
- *keeping work secure in the centre once the evidence (i.e. the report and the supportive evidence) is handed in.*
- *ensuring work is not returned to the candidate to make changes.*

By her actions, Mrs McGuinness breached the above requirements of the Specification. She sought to change the appearance of pupils’ dishes to demonstrate a higher level of skills that would attract more marks. This amounted to alteration of grades that pupils would be awarded for their NEA Food assessment.

During her interview with Witness C, as reflected in the bundle, Mrs McGuinness commented that she had ‘overstepped the mark’ and ‘got carried away’. Mrs McGuinness further explained that no one had told her to make changes to pupils’ completed dishes and she was aware these changes had been outside the assessment guidance for the Food NEA.

It appeared to the panel, based on the evidence of all of the TRA’s witnesses that there was a competitive atmosphere between [REDACTED] and Mrs McGuinness who both wished to ensure that their pupils attained good grades in their NEA assessment. This influenced Mrs McGuinness to take action to provide students with an unfair advantage which was wholly outside of the assessment guidance. In the panel’s view, Mrs McGuinness’ conduct as found proven under allegations 1(a) to 1(d) demonstrated a significant lack of integrity.

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

Having found allegations 1(a) to 1(d) and allegation 2 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 McGuinness in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mrs McGuinness was in breach of the following personal and professional conduct elements of the Teachers’ Standards:

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

Mrs McGuinness was an experienced teacher and had been head of department for some time. She was in a position of responsibility and was line manager to other Food Technology colleagues, including [REDACTED]. Mrs McGuinness would be expected to set the standard for all other staff to follow.

When assessing pupils, members of the public, parents and pupils, would expect and trust that all teachers will act in accordance with the specification and guidance issued by examination boards for specific assessments. Therefore, it follows that no pupil in a particular school should be provided with an unfair advantage over another.

Mrs McGuinness’ actions undermined the integrity of the NEA Food assessment and the School, by her personal actions and failing to prevent other staff members altering pupils’ work in order that they be awarded a higher grade than their work merited. It appeared to the panel that Mrs McGuinness was inappropriately influenced by the competitive atmosphere between her and [REDACTED]. The panel was satisfied that the conduct of Mrs McGuinness fell significantly short of the standards expected of the profession.

As a result of her actions, Mrs McGuinness undermined public confidence in that particular School and the integrity of the qualification. The panel noted that the pupils in that School were significantly affected and received adjusted marks which may not have adequately reflected their achievement. In a wider context, her actions, undermined

public confidence in the achievements of other pupils who had taken public examinations. This undermined the teaching profession as a whole.

The panel also considered whether Mrs McGuinness' conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The panel found that the following is relevant: serious dishonesty. Accordingly, the panel was satisfied that Mrs McGuinness 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 they behave.

For the above same reasons, the panel therefore found that Mrs McGuinness' actions also constituted conduct that may bring the profession into disrepute.

Having found the facts of 1(a) to 1(d) and allegation 2 proved, the panel further found that Mrs McGuinness' 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. 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 some of them to be relevant in this case, namely: the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

The panel's findings against Mrs McGuinness reflected her involvement in altering or amending pupils' practical assessments which would result in pupils obtaining a higher mark than their own work merited. In addition, the pupils in the School were significantly affected and received adjusted marks which may not have adequately reflected their achievement amended marks. The panel noted from the evidence in the bundle that

Pupil C's practical assessment had also been changed by Mrs McGuinness. The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs McGuinness were not treated with the utmost seriousness when regulating the conduct of the profession. This is assessed by reference to the standard of the ordinary intelligent and well-informed citizen who both appreciates the seriousness of the proposed 'sanction' and recognises the high standards expected of all teachers. Failing to abide by assessment criteria issued by an examination board is highly unprofessional and leads to the entire assessment system being undermined.

The panel was also of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was present as the conduct found against Mrs McGuinness was considerably outside that which could reasonably be tolerated. Her conduct undermined the integrity of the entire public examination system.

The panel considered that a prohibition order would strike the right balance between the rights of Mrs McGuinness and the public interest being seriously undermined.

Notwithstanding 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 McGuinness.

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 [REDACTED]. 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 are relevant in this case are:

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

The panel found that Mrs McGuinness had instructed Witness A who was not a confident person to help pupils make their food look "nice". This included storing pre-prepared items in the fridge, made by either Mrs McGuinness herself or items that she instructed

Witness A to make. This means that not only were her actions in contravention of the requirements for the NEA assessment but she also instructed Witness A to do likewise.

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 considered that Mrs McGuinness' actions were deliberate. There was no evidence to suggest that Mrs McGuinness was acting under duress. Even though she considered she was under a lot of pressure to achieve similar results to those achieved by [REDACTED]'s pupils in 2017/18, this did not amount to duress. In fact, the panel found Mrs McGuinness' actions to be calculated and pre-meditated. She gave instructions to Witness A to pre-prepare bread or freeze other items that could be used by pupils, and buy in ingredients to be used by pupils if their work was not at a sufficiently high standard. She herself also made and brought in ginger biscuits. The panel noted that Mrs McGuinness had not voluntarily brought her inappropriate conduct to the attention of the School, and it would have gone undetected if the parent of Pupil A and Pupil A herself had not raised concern. It appeared, from the oral evidence of Witness A, that this was custom and practice in previous years when she was head of department.

The panel was of the view that Mrs McGuinness had not demonstrated high standards in both the personal and professional conduct elements of the Teachers' Standards.

There was no evidence before the panel that Mrs McGuinness was previously subject to disciplinary proceedings/warnings or that she was not of previous good history.

The panel noted from the character statement provided on behalf of Mrs McGuinness that Mrs McGuinness has been working at the [REDACTED] since she resigned from her role at the School. It appears that Mrs McGuinness has been open about the reason she felt she had to leave the teaching profession and the error of judgement she made in "consciously" changing pupils work in the hope that this would secure better grades. The character statement further reflects that Mrs McGuinness did not regard that the amendment of the coursework would be for her own personal gain. The provider of the character statement considers that Mrs McGuinness was open and honest, and genuinely remorseful for the poor decision she made and had in many ways "already suffered on a daily basis over the last 5 years". Mrs McGuinness "loved" the teaching provision and she was ashamed of what she had done.

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 was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mrs McGuinness of prohibition.

The panel was therefore of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs McGuinness. Her actions in undermining the integrity of the public examinations system 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 to recommend that a review period of the order should be considered. 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 where a case involved certain types of behaviour it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. One of these behaviours relates to serious dishonesty. The panel regarded the dishonesty found against Mrs McGuinness as serious given the impact her actions had on the relevant pupils. The panel found that Mrs McGuinness was responsible for deliberately and purposely undermining the integrity of the NEA Food assessment. There were multiple instances of Mrs McGuinness providing inappropriate assistance to pupils to alter their completed work to ensure they attained higher marks.

The panel was mindful that Mrs McGuinness had admitted, in the course of these proceedings, the dishonest nature of her overall conduct as set out at allegations 1(a) to 1(d) which demonstrated a lack of integrity. The character evidence submitted on her behalf also indicated that she was remorseful and was capable of demonstrating sufficient remediation and insight to prevent a repetition of her behaviour in the future. The panel also considered that Mrs McGuinness' mitigation statement reflected her "huge regret" over her actions. The panel considered that Mrs McGuinness had taken some responsibility for her actions. However, this was tempered by the panel noting that the actions of Pupil A and her parent, in bringing this matter to the School's attention displayed a greater level of honesty and integrity than exhibited by Mrs McGuinness' conduct during the timeframe of the allegations. It did not seem to the panel that Mrs McGuinness acknowledged the detrimental impact her conduct had had on the assessment results of the relevant pupils.

The panel considered that the public interest has greater relevance and weighs in favour of a longer period before a review is considered appropriate. The panel noted that Mrs McGuinness has already been subject to a sanction from the examination board as a result of this same conduct. To some extent she has had a significant period of time within which to attain further insight into the inappropriate nature of her actions. However, the repeated and systemic nature of Mrs McGuinness' conduct, led the panel to consider that a review period of 5 years would be appropriate in this case to enable Mrs McGuinness to develop further insight and remediation to prevent a repeat of similar conduct in the future.

The panel therefore decided that its findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a five year 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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

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

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

The findings of misconduct are particularly serious as they include dishonesty and behaviour lacking in integrity.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In assessing 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 Mrs McGuinness, 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 does not record any evidence that [REDACTED]'s behaviour constituted a threat to the safety and wellbeing of pupils. However, the panel does comment that it "...noted that as a result of [REDACTED]'s actions, the pupils in that School were significantly affected and received adjusted marks which may not have adequately reflected their achievement." 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 it sets out as follows:

"The panel was mindful that Mrs McGuinness had admitted, in the course of these proceedings, the dishonest nature of her overall conduct as set out at allegations 1(a) to 1(d) which demonstrated a lack of integrity. The character evidence submitted on her behalf also indicated that she was remorseful and was capable of demonstrating sufficient remediation and insight to prevent a repetition of her behaviour in the future. The panel also considered that Mrs McGuinness' mitigation statement reflected her "huge regret" over her actions. The panel considered that Mrs McGuinness had taken some responsibility for her actions. However, this was tempered by the panel noting that the actions of Pupil A and her parent, in bringing this matter to the School's attention displayed a greater level of honesty and integrity than exhibited by Mrs McGuinness' conduct during the timeframe of the allegations. It did not seem to the panel that Mrs McGuinness acknowledged the detrimental impact her conduct had had on the assessment results of the relevant pupils."

In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour. 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:

“As a result of her actions, Mrs McGuinness undermined public confidence in that particular School and the integrity of the qualification. The panel noted that the pupils in that School were significantly affected and received adjusted marks which may not have adequately reflected their achievement. In a wider context, her actions, undermined public confidence in the achievements of other pupils who had taken public examinations. This undermined the teaching profession as a whole.” In this case I am particularly mindful of the findings of dishonesty and behaviour lacking integrity and the serious negative impact that such findings may have 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 McGuinness herself. The panel notes that “There was no evidence before the panel that Mrs McGuinness was previously subject to disciplinary proceedings/warnings or that she was not of previous good history.” No evidence is recorded of Mrs McGuinness having made an outstanding contribution to the teaching profession but the panel do make note of having seen evidence attesting to Mrs McGuinness’ good character and the negative personal impact that these matters have had on her.

A prohibition order would prevent Mrs McGuinness 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 serious nature of the misconduct found which included serious dishonesty, as well as the panel’s comments concerning the lack of evidence that Mrs McGuinness has attained full insight and remorse.

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs McGuinness 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 full 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 five-year review period.

I have considered the panel's comments:

"The panel considered that the public interest has greater relevance and weighs in favour of a longer period before a review is considered appropriate. The panel noted that Mrs McGuinness has already been subject to a sanction from the examination board as a result of this same conduct. To some extent she has had a significant period of time within which to attain further insight into the inappropriate nature of her actions. However, the repeated and systemic nature of Mrs McGuinness' conduct, led the panel to consider that a review period of 5 years would be appropriate in this case to enable Mrs McGuinness to develop further insight and remediation to prevent a repeat of similar conduct in the future."

I have considered whether a five-year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. Although I am in no doubt as to the seriousness of the misconduct committed by Mrs McGuinness, which involved serious dishonesty and a lack of integrity, I consider that it may be possible for her to reflect on and take responsibility for her actions as the panel has recommended in a shorter time period.

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

This means that Mrs Amanda McGuinness 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 16 April 2028, four 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 McGuinness remains prohibited from teaching indefinitely.

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

Mrs Amanda McGuinness 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 'Marc Cavey', with a long horizontal stroke extending from the end of the signature.

Decision maker: Marc Cavey

Date: 4 April 2024

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