



Teaching
Regulation
Agency

Mrs Carol Barker (Rial) Professional conduct panel 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 Carol Barker
Teacher ref number:	8775060
Teacher date of birth:	16 July 1964
TRA reference:	19225
Date of determination:	6 March 2024
Former employer:	Woodlands Academy, Nottingham

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4-6 March 2024 by way of a virtual hearing, to consider the case of Mrs Carol Barker.

The panel members were Mr John Martin (former teacher panellist in the chair), Mr Stephen Chappell (lay panellist) and Mrs Anne Davis (teacher panellist).

The legal adviser to the panel was Mr Jermel Anderson of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Ms Louisa Atkin of Capsticks LLP solicitors.

Mrs Carol Barker was not present but was represented by Colin Henderson from The Reflective Practice. He attended to deal with preliminary matters and to address the panel in relation to the allegations that were faced by Mrs Barker; he withdrew from the hearing once the TRA was in position to open its case, in accordance with his professional instructions.

The hearing took place in public and was recorded. The panel retired into private session to deal with some sensitive matters, private matters are highlighted in red.

Allegations

The panel considered the allegation(s) set out in the notice of proceedings dated 03 January 2024.

You are guilty of unacceptable professional conduct and/ or conduct that may bring the profession into disrepute in that, whilst employed by the Raleigh Learning Trust (“the Trust”) as a teacher and/ or Principal at Woodlands Special School (“the Academy”):

1. On or around 28 May 2011, you caused or allowed the submissions of a reference to Nottingham City Council (‘The Council’) that:
 - a. Stated that Person A ‘has worked on a voluntary basis...for about 5 years’;
 - b. Did not refer to Person A’s arrest in connection with the sexual assault of a child in 2009(‘the 2009 arrest’).
2. Your conduct at 1a) was:
 - a. Misleading;
 - b. Dishonest in that you intended to create a false impression that Person A had continued to work on a voluntary basis since on or around 2006.
3. Your conduct at 1b) was:
 - a. Misleading;
 - b. Dishonest in that you were aware of the 2009 arrest.
4. In or around September 2015:
 - a. You did not carry out adequate pre-appointment checks of Person A and/or assessments of Person A’s risk to children arising from the 2009 arrest;
 - b. You did not carry out adequate pre-appointment checks of Person C.
5. Following concerns raised on or around 18 March 2016, regarding Person A placing his hand inside Pupil B’s clothing, you did not:
 - a. Escalate the concerns to LADO prior to 1 April 2016;
 - b. Inform the parents of Pupil B.
6. In or around August 2018, you did not carry out adequate pre-appointment checks of Person D.
7. On or around 4 September 2018, whilst Person A was on temporary leave, you caused or allowed Person A to receive a ‘three point’ pay rise.
8. Your conduct at 7 above was inappropriate in that:
 - a. Person A was not scheduled to receive a salary progression in September 2018;
 - b. The salary progression exceeded Person A’s grade.

Through her witness statement and her representative, Mrs Barker admitted allegations 1a,1b, 2a, 3a, 4a, 5a, 5b and 7.

Mrs Barker denied allegations 2b, 3b, 4b, 6, 8a and 8b.

Mrs Barker's representative confirmed that she admits to unacceptable professional conduct and/or conduct that may bring the profession into disrepute in relation to allegation 4a. Mrs Barker made no further admissions in relation to misconduct.

Preliminary applications

Proceeding in Absence

The panel considered an application from the TRA to proceed in the absence of Mrs Barker. It heard submissions in relation to this and received the legal advice which it accepted. The panel determined that given the response provided by Mrs Barker as confirmed by her legal representative, it could safely determine that she had voluntarily absented herself from the process. Furthermore, it noted the explicit waiver of her right to attend in both her witness statement, and the submissions made by her representative as a clear indication that there was no benefit to seeking an adjournment in these circumstances. The panel was also mindful of the significant public interest matters in this case, and determined that their significance outweighed any potential prejudice faced by Mrs Barker in these circumstances.

Accordingly, the panel determined it was appropriate to proceed in the absence of Mrs Barker.

Privacy application

The panel considered an application from Mrs Barker's representative to deal with some sensitive matters in private. It heard and accepted legal advice in relation to this. It considered that given the nature of what was raised by Mrs Barker's representative, her Article 8 rights were engaged. It also was mindful that whilst it must have regard for the open justice principle, there was no particular public interest in the specific issues being raised in public. The panel additionally felt that it was capable of retiring to private session should the specific issue be raised, though it was agreed by parties that it was unlikely for this to occur.

Accordingly, the panel felt it was both in the public interest and the interests of justice for the matter to proceed in public, save for mention of the sensitive issues that formed the basis of the application that was made by Mrs Barker's representative.

Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 6 to 13

Section 2: Notice of referral, notice of proceedings and responses – pages 14 to 23

Section 3: Teaching Regulation Agency witness statements – pages 24 to 80

Section 4: Teaching Regulation Agency documents – pages 81 to 1426

Section 5: Teacher documents – pages 1427 to 1470

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

In the consideration of this case, the panel had regard to the document Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018, (the “Procedures”).

Witnesses

The panel heard oral evidence from

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

Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel was presented with witness statements of the above witnesses in addition to those produced by Person C, [REDACTED], [REDACTED], Person A [REDACTED] Person B. The TRA also provided the panel with a significant volume of investigative material, in addition to employment documentation and policy and guidance documents.

Whilst waiving her right to attend, Mrs Barker also provided a series of documents. Her documents included witness statements from Individual A [REDACTED], Individual B

[REDACTED], Individual C [REDACTED], Individual D [REDACTED], as well as a statement from herself. Mrs Barker's statement was also accompanied with a series of exhibits which mainly came in the form of training certificates.

Mrs Barker was first employed by the School in September 1992. She progressed through the organisation, before being appointed to the position of Headteacher in September 2010.

Person A undertook voluntary work at the school [REDACTED], and then worked as a nursery nurse [REDACTED]. In September 2009, Person A was arrested in connection with an allegation of sexual assault pertaining to a child [REDACTED] and an article was published in local media detailing this allegation 5 days later.

On 28 May 2011, Mrs Barker gave a reference to Nottingham City Council in relation to Person A. Person A subsequently applied for a role at the school on [REDACTED], and was offered a role as a Teaching Assistant which commenced on [REDACTED].

Person C was employed by the school on [REDACTED] and raised concerns about Person A's behaviour in the same month. [REDACTED], Person C raised concerns about Person A's behaviour towards Pupil B and discussed these matters with Mrs Barker. Following several internal school meetings, Mrs Barker eventually advised the LADO of concerns raised about Person A on [REDACTED].

In June 2018, Mrs Barker received notification that Person A had been arrested for an allegation of a sexual nature against a child. Person A was subsequently advised to stay home pending further clarification with the LADO and Police.

Following instruction from Mrs Barker, Person A's salary was uplifted in September 2018. Mrs Barker was then informed in November 2018 that police were investigating concerns in relation to the incident from 2009, in addition to the more recent allegation. An internal investigation was subsequently facilitated and Person A left the school in the early part of 2019. In March 2019 police confirmed that the investigation in relation to Person A's conduct involved sexual assault by touching of a boy under the age of 13 and sexual assault by digital penetration of a boy under the age of 13; Person A was then charged in September 2019.

Person D, who had been appointed on [REDACTED], was brought to the attention of the Trust. This was because in November 2019, concerns were raised about the process surrounding her appointment.

The internal investigations continued and a referral was made to the TRA in relation to Mrs Barker on 12 March 2020.

Findings of fact

The findings of fact are as follows:

The panel found the following allegations against you proved:

Allegation 1a, Allegation 1b, Allegation 2a, Allegation 2b, Allegation 3a, Allegation 3b, Allegation 4a, Allegation 4b, Allegation 5a, Allegation 5b, Allegation 6, Allegation 7, Allegation 8b

The panel found the following allegation against you not proved:

Allegation 8a

The panel's considerations in respect of each allegation was as follows:

1. On or around 28 May 2011, you caused or allowed the submissions of a reference to

Nottingham City Council ('The Council') that:

a. Stated that Person A 'has worked on a voluntary basis...for about 5 years';

b. Did not refer to Person A's arrest in connection with the sexual assault of a child in 2009('the 2009 arrest').

The panel considered Mrs Barker's factual admission in relation to allegations 1a and 1b. It formed the view that it could treat these allegations as admitted, given the clarity with which they were addressed by Mrs Barker, and also the fact that there were submissions made by her representative to this affect that it heard at the start of the hearing.

The panel had sight of the reference as provided by Mrs Barker in relation to Person A on 28 May 2011 and noted that it stated that he "has worked on a voluntary basis at our special school for about 5 years". It also noted, that the reference form asked for any further information which should include "arrests.....in relation to vulnerable people or children"; this part of the form was left blank. The Panel additionally noted Witness B investigative report which concluded "findings do not support the idea that Person A volunteered at Woodlands from 2006 to 2011".

The panel also heard the live evidence of Witness A and saw notes pertaining to her investigation. It considered her to be a credible witness in relation to the history of the matter and took note of the chronology that she exhibited which further demonstrated that the part of the reference contained within Allegation 1a, was more likely than not to be inaccurate.

The panel were also mindful of Mrs Barker's specific admission in relation to allegation 1b within her witness statement, whereby she acknowledged that she was aware of the 2009 arrest when she completed the reference. Additionally the panel engaged with the hearsay evidence of the witness statement of Person A's [REDACTED] which supported the notion that Mrs Barker was aware of the arrest at the time. Given the corroborative nature of Person A's [REDACTED] evidence in this regard, the panel felt it could be taken as credible.

The panel therefore found the facts of allegations 1a and 1b proved.

2. Your conduct at 1a) was:

a. Misleading;

b. Dishonest in that you intended to create a false impression that Person A had continued to work on a voluntary basis since on or around 2006.

The panel began its deliberations in relation to these allegations by considering the admission made by Mrs Barker. It determined that it could accept this admission in relation to allegation 2a.

The panel noted that Mrs Barker had apologised for the lack of accuracy in relation to the issue of Person A and her account. Mrs Barker confirmed that she accepted that she had been misleading but denied any dishonesty. The panel additionally felt it was appropriate to characterise the disclosure made by Mrs Barker as "misleading", given the fact that it was wholly inaccurate.

The panel considered the factual and evidential background of this matter. It also considered that Mrs Barker had given an inconsistent account in relation to the volunteering done by Person A. During her interview with Witness B she had described Person A as "popping in" on occasion, but when speaking to Witness A, Mrs Barker had asserted that Person A had volunteered on Wednesdays over the course of approximately about a year.

It additionally noted that through her own admissions, Mrs Barker expressed an awareness of Person A's arrest in 2009, when he was employed by [REDACTED]. It also thought that Person A's [REDACTED] witness statement where she stated "I do not recall [Person A] volunteering at the Academy any time after July 2004", further undermined the suggestion that the volunteering could have gone on for 5 years.

The panel decided that it could reasonably draw an inference that Mrs Barker could not have held a genuine belief that Person A had worked at the school for about 5 years, given her knowledge of Person A's employment elsewhere. Accordingly, it determined, that by the standards of ordinary decent people, it could rightfully find that she had been dishonest in her reference for Person A.

The panel found Allegations 2a and 2b proved.

3. Your conduct at 1b) was:

a. Misleading;

b. Dishonest in that you were aware of the 2009 arrest.

The panel considered that Mrs Barker had made a frank admission to allegation 3a within her witness statement. She admitted that she was aware of the arrest, and therefore her non-declaration of the arrest was inherently misleading.

The panel were particularly mindful of the fact that Mrs Barker asserted through her evidence that she “honestly thought that in fairness to him”, that she should not mention an arrest. It considered this to be a material demonstration of knowledge of the arrest at the relevant time, regardless of her motivations or view on the arrest. It also considered the fact that, as addressed previously, she was explicitly asked when submitting the form whether there were any relevant arrests.

The panel found that Mrs Barker had a genuine belief that the arrest had taken place. Given the panel’s finding as to Mrs Barker’s state of mind, the panel went on to consider and determined that it was more likely than not that Mrs Barker had been dishonest by the standards of ordinary decent people.

Accordingly, allegations 3a and 3b were found proved.

4. In or around September 2015:

a. You did not carry out adequate pre-appointment checks of Person A and/or assessments of Person A’s risk to children arising from the 2009 arrest;

Mrs Barker’s admissions in relation to allegation 4a were of particular note to the panel.

The panel was aided by the oral evidence of Witness A who stated that the expectations for pre-appointment checks such as interviews and references, would be expected in this context. It considered that Witness A was a HR professional with experience of pre-appointment processes and it could therefore cautiously afford her opinion some weight. The panel were also clear that the fact that no formal interview took place, and it was notable that there appeared to be no compliance with the Nottingham City Council Guidance and KCSIE guidance. Witness A also gave evidence to the fact that the referencing in relation to Person A only took place post-appointment. The evidence of Person C confirmed that only a single reference was found within the file. Person A’s [REDACTED] also provided a statement which confirmed that the “usual recruitment process” was not followed by Mrs Barker.

The panel therefore determined that it was more likely than not that the pre-appointment checks were inadequate in this context.

Given the absence of the appropriate steps in relation to the recruitment process as identified by Witness A , and given Mrs Barker's admissions, the panel found the facts of 4a more likely than not to have occurred.

b. You did not carry out adequate pre-appointment checks of Person C.

The panel noted that Mrs Barker denied 4b within her witness statement. It considered the fact that she maintained that she had received appropriate references in relation to the role. Mrs Barker suggested that Person C had some relevant experience, that there were two references that had been provided, that an [REDACTED].

However, it also heard directly from Witness A who confirmed that there was only one undated reference on the employment file. Furthermore, it was determined that the reference that was provided was an insufficient as it was only a character reference. Having heard directly from Witness A in relation to this issue, it felt that she was a compelling witness in relation to the professional expectations in relation to pre-appointment checks. On balance, the panel found it more likely than not that only a single reference was provided, and that this was a character reference. The panel noted that there were no interview notes that were identified in relation to Person C. The panel were also mindful of the Nottingham City Council Guidance and KCSIE guidance that was also made available, with a particular view of the safeguarding considerations within recruitment. It felt that on balance of probabilities, that the pre-appointment checks that were conducted in relation to Person C were inadequate.

The panel therefore found allegations 4a and 4b proved.

5. Following concerns raised on or around 18 March 2016, regarding Person A placing his hand inside Pupil B's clothing, you did not:

a. Escalate the concerns to LADO prior to 1 April 2016;

b. Inform the parents of Pupil B.

The panel noted that Mrs Barker admitted to both limbs of this allegation.

It considered the evidence of Witness A who indicated that per the relevant KCSIE 2015 guidance, that Mrs Barker should have informed the LADO as soon as possible after the incident was reported to her. The panel also heard the oral evidence of Witness C who advised that the matter should have been reported to the "LADO within 24 hours" when discussing the facts of 5a.

The panel also considered Person C statement which, whilst hearsay, they felt they could afford significant weight to in relation to this issue due to the fact that it was relevant, fair, and consistent with the other evidence that they had heard. The panel felt that the fact that Person C, [REDACTED], felt the need to escalate the issue to the attention of the Safeguarding Governor was a clear indication that the KCSIE guidance had not been followed. It found it was more likely than not, given all of the evidence before it, that allegation 5a had occurred.

When considering 5b, the panel again considered that there was a specific obligation within paragraph 122 of the 2015 KCSIE guidance making clear that parents should have been informed promptly. It also noted Mrs Barker's own admission that she did not speak to the parents of Pupil B and stated within her witness statement "this was not the right thing to do". It noted again that there was nothing to suggest that it had done and therefore, felt that it could draw an inference that the appropriate action had not been taken.

The panel saw the notes of the LADO Meeting of 25 October 2019 whereby it was confirmed that Pupil B's parents were only informed of the concerns three years after the incident, and that this was done by the Police.

The panel therefore found the facts of allegations 5a and 5b proved.

6. In or around August 2018, you did not carry out adequate pre-appointment checks of Person D.

Mrs Barker denied this allegation and asserted that the primary reference as provided was adequate. The primary reference came from a social worker who was a safeguarding lead. Mrs Barker also referred to a second reference, [REDACTED]. Mrs Barker suggested that these references would have been sufficient. In addition, Mrs Barker suggested that the [REDACTED].

The panel however considered the oral evidence of Witness A , where she expressed that there was no evidence that there were any adequate pre-appointment checks taken in relation to Person D, having only had sight of a single character reference. It was also noted that there were no interview notes in relation to Person D. The panel found it more likely than not that only a single reference (the reference from the social worker) existed, given the overall consistency and credibility of Witness A 's account. The panel noted that Mrs Barker had not commented on any of the other aspects which may be expected in terms of pre-appointment checks, and had only commented on what she determined to be the adequacy of the statement that was obtained.

The panel again took account of the witness statement of Person C which corroborated the evidence of Witness A and therefore, was considered persuasive. Person C's

account was that there was limited information in relation to Person D's file to suggest that the school's recruitment processes had been followed.

Given the evidence of Witness A, the panel felt it appropriate to draw an inference that adequacy of pre-appointment checks would include more than a single character reference. Accordingly, it found it more likely than not that the facts of Allegation 6 occurred.

The panel found Allegation 6 proved.

7. On or around 4 September 2018, whilst Person A was on temporary leave, you caused or allowed Person A to receive a 'three point' pay rise.

Mrs Barker made an admission to this allegation within her witness statement. The panel considered this admission to be consistent with the other evidence before it. It additionally noted that the witness statement of Person A's mother stated that she had been instructed by Mrs Barker to increase Person A's pay by three pay points. It acknowledged that it had not heard live evidence from Person A's [REDACTED]. However it felt that given the consistency of it with the other evidence as presented, the panel could fairly afford significant weight to it as a relevant piece of evidence. It considered that the facts of allegation 7 were more likely than not to have occurred, given the evidence within the matter.

The panel accordingly found allegation 7 proven.

8. Your conduct at 7 above was inappropriate in that:

a. Person A was not scheduled to receive a salary progression in September 2018;

The panel acknowledged that this allegation was denied by Mrs Barker. It considered her account that there was nothing inappropriate in relation to Person A's pay progression.

Having considered the evidence in relation to this allegation, the panel formed the view that the TRA had not persuaded it on the balance of probabilities that Person A was not scheduled to receive a salary progression in September 2018. The panel heard directly from Witness B who confirmed through her live evidence, that there was a scheduled pay rise which was due to take place in September 2018. The panel saw evidence that Person A had received pay rises in September 2017, September 2016 and September 2015. The panel therefore felt that it could reasonably infer that Person A would be scheduled to receive a further pay rise in September 2018.

The panel noted that the payroll contract arrangement indicated that Person A was at pay point 14, and within band TA1. Based upon the evidence it heard, it was satisfied that he would at the very least have been expected to progress to pay point 15. Person A had

not reached the top of his pay range and the evidence of Witness B confirmed that until the top of the pay range was reached, pay increases were to be expected.

Accordingly, the panel found allegation 8a not proved.

b. The salary progression exceeded Person A's grade.

The panel acknowledged that this allegation was denied by Mrs Barker.

The panel again considered the witness statement of Person A's [REDACTED] and considered that as per her to-do list as exhibited, there was an explicit instruction from Mrs Barker which spoke directly to the factual basis of the allegation. The panel heard live evidence from Witness B who provided a thorough explanation of the non-teaching pay scales. The panel found that through Witness B's evidence, that a three point pay rise took Person A beyond the pay range of TA1.

The panel also felt that Mrs Barker had given inconsistent accounts in relation to this allegation. It felt that Mrs Barker's assertion during her interview with Witness B that she had "no idea" about the pay rise was not credible. Additionally, as the person responsible, it felt that on balance of probabilities, she had directed the salary progression in September 2018 beyond the requisite pay range and that this was not appropriate.

Mrs Barker stated within her witness statement that Person A was qualified [REDACTED]. She stated that she had made staffing provision for a [REDACTED] role for him within the classroom and therefore that the pay rise was justifiable. However, when questioned by Witness A she had previously stated in relation to Person A "I always had it in my head that he would only ever be able to be a [REDACTED] ...even though he was qualified to [REDACTED]". The panel found that this contradiction further undermined Mrs Barker's credibility in relation to this allegation.

The facts showed that Person A was a [REDACTED], and there was no evidence of a [REDACTED] role that was available. Additionally, the panel considered the Nottingham City Council Recruitment and Selection Guidance as exhibited by Witness A which states that no employee is allowed to move above the [REDACTED]. The facts demonstrate that Person A had moved to a pay point which was outside of the [REDACTED].

The facts of allegation 8b were therefore found proven.

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

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

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mrs Barker’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The panel found that the offence of fraud or serious dishonesty was relevant in that it found that she had been dishonest in relation to a reference that Mrs Barker provided to Nottingham City Council.

In addition Mrs Barker failed to follow appropriate safeguarding procedures in relation to the recruitment of staff and did not take concerns relating to staff seriously which led to escalation by [REDACTED]. The panel also concluded that Mrs Barker’s decision to give Person A three point pay rise in excess of his pay range was not justified.

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

Accordingly, the panel was satisfied that Mrs Barker was guilty of unacceptable professional conduct.

In relation to whether Mrs Barker's actions amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others. It considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

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

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

Having found the facts of particulars 1a, 1b, 2a, 2b, 3a, 3b, 4a, 4b, 5a, 5b, 6, 7 and 8b proved, the panel further found Mrs Barker'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. 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 public interest – general

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 and the declaring and upholding proper standards of conduct.

The public interest – specific

The panel's findings involved Mrs Barker dishonestly providing a reference to Nottingham City Council where there was a significant safeguarding risk. It was therefore felt that

there was a strong public interest consideration in relation to all of the public interest considerations referred to above.

There was a significant public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of in relation to the inappropriate recruitment practices in the school environment.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Barker were 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 Barker was outside that which could reasonably be tolerated. The findings of fact specifically involved the failure to follow KCSIE and other related policy guidance.

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mrs Barker in the profession. The panel felt that whilst there may be a general public interest in teachers remaining within the profession, the findings against her were so significant that the other public interest considerations within the case would significantly undermine any such consideration in this case.

Proportionality

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 Barker.

The Advice

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 Barker. 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- failure to act on evidence that indicated a child's welfare may have been at risk e.g. failed to notify the designated safeguarding lead and/or make a referral to

children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;

- 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);
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests;
- collusion or concealment including:
 - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions;

Mitigation – as per the list in the Teacher Misconduct – The Prohibition of Teachers Advice

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 Barker's actions were not deliberate.

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

The panel found that Mrs Barker did have a previously good history and had not been subject to any disciplinary findings previously.

The panel took note of Witness B's interview with Person A's [REDACTED] who had characterised Mrs Barker's behaviour as "in being compassionate for vulnerable adults she can lose sight of the core purpose and make decisions that are not in the best interest of children". The panel also considered several character references that were provided by Mrs Barker. It noted that Individual A had remarked that Mrs Barker "did her utmost (sic) to provide a loving, safe, well-educated setting for pupils". The character reference of Individual B described Mrs Barker as "selfless" within his character reference and had talked at length about her positive attitude both within and outside of the school, which aided the panel's determination.

The panel was also provided with certificates which showed that Mrs Barker had taken several relevant training courses since the allegations arose. The training includes courses which focused on safer recruitment practices, child sexual exploitation

awareness and designated safeguarding lead responsibilities. The panel considered that undertaking these courses showed some degree of remediation.

The panel recognised that Mrs Barker had shown some insight. In her witness statement Mrs Barker remarked “My trust of people’s innate goodness and my own desire to believe that people are trustworthy should never have superseded my professional duty to protect children and my school population”. She also expressed that she was “profoundly regretful and deeply ashamed that I put my pupils and staff at any risk when it was my avowed duty to protect them”. However the panel was troubled that Mrs Barker had not wholly engaged with the severity of the allegations as she had characterised her behaviour as “a small collection of procedural errors”. The panel was therefore concerned that there may be a small risk of repetition.

[REDACTED].

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 Barker 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 Barker. The findings in relation to Mrs Barker’s failure to safeguard children 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.

Review – general

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.

Review – specific

The Advice indicates that there are certain types of case where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period.

None of the listed characteristics were engaged by the panel's findings.

The Advice also indicates that where a case involves certain other characteristics, 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.

These characteristics include:

- fraud or serious dishonesty

The panel concluded that there had been a conscious attempt to withhold the fact that an individual had been arrested for a sexual offence against a child when providing a reference. It found that this was a very serious type of dishonesty when considered within the context of Mrs Barker's status within the profession.

The panel decided that the 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 review period.

The panel determined that the minimum review period should be one of 4 years.

Decision and reasons on behalf of the Secretary of State

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

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

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

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

In particular, the panel has found that Mrs Barker is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.

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

The panel was satisfied that the conduct of Mrs Barker, 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 Barker fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty where significant safeguarding risks were relevant.

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 or 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 Barker, 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, "There was a significant public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of in relation to the inappropriate recruitment practices in the school environment." 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 recognised that Mrs Barker had shown some insight. In her witness statement Mrs Barker remarked "My trust of people's innate goodness and my own desire to believe that people are trustworthy should never have superseded my professional duty to protect children and my school population". She also expressed that she was "profoundly regretful and deeply ashamed that I put my pupils and staff at any risk when it was my avowed duty to protect them". However the panel was troubled that Mrs Barker had not wholly engaged with the severity of the allegations as she had characterised her behaviour as "a small collection of procedural errors". The panel was therefore concerned that there may be a small risk of repetition." In my

judgement, the lack of full 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 Barker were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct and conduct 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 Barker herself and the panel comment “The panel found that Mrs Barker did have a previously good history and had not been subject to any disciplinary findings previously.” The panel also said it “was also provided with certificates which showed that Mrs Barker had taken several relevant training courses since the allegations arose. The training includes courses which focused on safer recruitment practices, child sexual exploitation awareness and designated safeguarding lead responsibilities. The panel considered that undertaking these courses showed some degree of remediation.”

A prohibition order would prevent Mrs Barker 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, “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 Barker was outside that which could reasonably be tolerated. The findings of fact specifically involved the failure to follow KCSIE and other related policy guidance.”

I have also placed considerable weight on the finding of the panel that “The panel felt that whilst there may be a general public interest in teachers remaining within the profession,

the findings against her were so significant that the other public interest considerations within the case would significantly undermine any such consideration in this case.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Barker 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 4 year review period.

I have considered the panel’s comments “The Advice also indicates that where a case involves certain other characteristics, 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.

These characteristics include:

- fraud or serious dishonesty

The panel concluded that there had been a conscious attempt to withhold the fact that an individual had been arrested for a sexual offence against a child when providing a reference. It found that this was a very serious type of dishonesty when considered within the context of Mrs Barker’s status within the profession.”

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 dishonesty found and the lack of full insight or remorse.

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

This means that Mrs Carol Barker 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 2028, 4 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 Barker remains prohibited from teaching indefinitely.

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

Mrs Barker has a right of appeal to 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 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 11 March 2024

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