



Teaching
Regulation
Agency

Mr Shane McLeer: Professional conduct panel meeting outcome

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

April 2024

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

Teacher:	Mr Shane McLeer
Teacher ref number:	0053858
Teacher date of birth:	01 August 1977
TRA reference:	21312
Date of determination:	29 April 2024
Former employer:	Ralph Thoresby School, Leeds

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 29 April 2024, to consider the case of Mr Shane McLeer.

The panel members were Mrs Emma Hendry (lay panellist – in the chair), Mr Peter Barnsley (teacher panellist) and Mr Brendan Stones (teacher panellist).

The legal adviser to the panel was Miss Rachel Phillips of Blake Morgan LLP.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr McLeer that the allegations be considered without a hearing. Mr McLeer provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer or Mr McLeer.

The meeting took place in private.

Allegations

The panel considered the allegations set out in the notice of meeting dated 2 February 2024.

It was alleged that Mr McLeer was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed as a Teacher at Ralph Thorseby School:

- 1. During the academic year of 2021-2022, in respect of the OCR Cambridge Nationals in Sports Studies Unit RO55, he;**
 - a. Informed the head of department he was on track to complete the unit RO55 in time for the deadline with the knowledge that he had failed to request and/or obtain the completed work in respect of learning objectives LO3 and/or LO4 for one or more pupils;**
 - b. Informed the head of department he would have students work marked and/or ready for the internal standardisation with knowledge that he failed to request and/or obtain the completed work in respect of learning objectives LO3 and/or LO4 for one or more pupils;**
 - c. Submitted marks onto the OCR school tracker for one or more pupils for the unit RO55 and/or learning objectives LO3 and LO4 for the work they had not completed.**

- 2. His conduct which may be proven at 1 (a-c) above lacked integrity and/or was dishonest.**

Mr McLeer admitted the facts of the allegations and that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 6 to 8

Section 2: Notice of proceedings and response – pages 10 to 27

Section 3: Statement of Agreed Facts and TRA submissions – pages 28 to 36

Section 4: Teaching Regulation Agency documents – pages 38 to 119

Section 5: Teacher documents – pages 122 to 128

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

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr McLeer on 16 October 2023.

Decision and reasons

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr McLeer for the allegations to be considered without a hearing.

The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

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

Mr McLeer was previously employed as a P.E. teacher at Ralph Thoresby School ("the School"). Mr McLeer commenced employment with the School in 1998.

During the academic year of 2021-2022, Mr McLeer taught, delivered and assessed the OCR Cambridge Nationals module in sports studies. This module consisted of an examined unit ("unit RO55") and two coursework units. Each coursework unit comprised four learning objectives ("LO").

Each unit was standardised during department meetings where students' work was sampled and quality assured to ensure that the work submitted supported the grade Mr McLeer awarded to students.

On 1 March 2022, a standardised meeting took place between Individual A, [REDACTED] and Mr McLeer. During this meeting, students' work in respect of LO1 and LO2 was reviewed, and the grades submitted by Mr McLeer were agreed.

On or around 10 May 2022, Mr McLeer provided an overall grade on students' work for submission to the awarding body ("OCR") in relation to RO55, including marks for LO3 and LO4. The marks submitted in respect of LO3 and LO4 were not standardised in the usual way due to Mr McLeer failing to meet the deadline for standardisation.

The marks provided by Mr McLeer in relation to LO3 and LO4 were submitted to the OCR by the School on 12 May 2022.

On or around 17 May 2022, McLeer was signed off work due to work-related stress. Thereafter, on 23 May 2022, Mr McLeer resigned from his position at the School.

Following his departure from the School, an allegation of malpractice was submitted by the School to the OCR in relation to Mr McLeer. It was alleged that Mr McLeer submitted marks onto the OCR school tracker for one or more pupils in respect of unit RO55, specifically LO3 and LO4 for work they had not completed.

Due to health concerns raised by Mr McLeer within his resignation letter, the School did not commence a formal investigation.

Findings of fact

The findings of fact are as follows:

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

- 1. During the academic year of 2021-2022, in respect of the OCR Cambridge Nationals in Sports Studies Unit RO55, you;**
 - a. Informed the head of department you were on track to complete the unit RO55 in time for the deadline with the knowledge that you had failed to request and/or obtain the completed work in respect of learning objectives LO3 and/or LO4 for one or more pupils;**
 - b. Informed the head of department you would have students work marked and/or ready for the internal standardisation with knowledge that you failed to request and/or obtain the completed work in respect of learning objectives LO3 and/or LO4 for one or more pupils;**
 - c. Submitted marks onto the OCR school tracker for one or more pupils for the unit RO55 and/or learning objectives LO3 and LO4 for the work they had not completed.**

The panel was presented with a statement of agreed facts, signed by Mr McLeer, in which this allegation was admitted in its entirety.

The panel was also presented with the School's report to the OCR and supporting documents, including a statement by Individual A and statements by students in respect of the work completed for unit RO55.

In respect of allegations 1(a) and 1(b), the panel considered the chronology of events submitted by Individual A for the purposes of the OCR's investigation. The chronology sets out that:

- during a standardisation meeting in March 2022, Mr McLeer informed her that "*he was on track to complete the unit (RO55) in time for the deadline*"; and
- on 26 April 2022 (a date scheduled for internal standardisation of LO3 and LO4), Mr McLeer did not present her with any work for reviewing, but assured her that the students' work would be marked and ready for standardisation the following week.

With regard to allegation 1(c), the panel noted that whilst marks sourced from the School's tracker were submitted to the OCR for unit RO55, no work was provided by Mr McLeer for the internal standardisation of LO3 and LO4, and, subsequently, the School could not find any evidence that the work had been completed by the students. The panel also considered the students' statements, which indicate that they only completed work for the first two learning objectives (LO1 and LO2), to be consistent with proving this allegation.

The panel was satisfied that Mr McLeer's admissions were unequivocal and were consistent with the supporting evidence in the bundle. Accordingly, the panel found allegation 1 proved in full.

2. His conduct which may be proven at 1 (a-c) above lacked integrity and/or was dishonest

Having found the facts of allegations 1(a) - (c) proven, the panel went on to consider whether Mr McLeer's conduct was dishonest and/or lacked integrity.

In determining whether a person's conduct was dishonest, the panel had to consider the individual's state of knowledge or belief as to the facts before determining whether the conduct was dishonest by the standards of ordinary decent people.

As regards a lack of integrity, the panel took account the decision of the Court of Appeal in *Wingate v SRA*; *SRA v Mallins* [2018] EWCA Civ 366. It recognised that integrity denotes adherence to the ethical standards of the profession.

Mr McLeer accepted that he had acted dishonestly and in a way that lacked integrity in relation to each of the particulars of allegation 1.

The panel was satisfied that his admissions were consistent with the evidence presented to it.

With regard to allegations 1(a) and 1(b), the panel was satisfied that, on two occasions, Mr McLeer had assured Individual A that the students' work in respect of LO3 and LO4 would be ready for internal standardisation by the deadline when the work had not been completed.

In respect of allegation 1(c), the panel was satisfied that, based on the evidence before it, Mr McLeer had submitted an overall mark for submission to the OCR for unit RO55, which included marks for LO3 and LO4, where there was no evidence that students had completed the work.

The panel was, therefore, satisfied that Mr McLeer's actions were deliberate, which he accepted, and this was dishonest by the standards of ordinary decent people. The panel was also satisfied that his actions lacked integrity, in that he had failed to adhere to the standards of the profession.

Accordingly, the panel found allegation 2 proved in relation to allegations 1(a) to (c).

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

Having found 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.

Whilst this was admitted by Mr McLeer and that admission was taken into account, the panel made its own, independent determination.

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

The panel was satisfied that the conduct of Mr McLeer in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr McLeer was in breach of the following standards:

- Teachers must uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school ...
- 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 Mr McLeer's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 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.

The panel was satisfied that the conduct of Mr McLeer fell significantly short of the standards expected of the profession. His actions put students at risk of not obtaining the relevant qualification, and had the potential of having a detrimental effect on their future as a result.

The public also expect teachers to comply with relevant guidance applicable to assessments and to act with honesty and integrity at all times. The panel found that Mr McLeer's conduct was a deliberate act of serious malpractice.

Accordingly, the panel was satisfied that Mr McLeer is guilty of unacceptable professional conduct, which he admitted.

In considering whether Mr McLeer's conduct may bring the profession into disrepute, the panel has taken into account how 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 that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct were extremely serious and the conduct displayed would likely have a negative impact on Mr McLeer's status as a teacher, potentially damaging the public perception.

The panel considered that an average member of the public would be shocked to learn a teacher had fabricated marks and deliberately flouted examination regulations.

Furthermore, the requirement to act with honesty and integrity was central to the way that the public expect teachers to behave. Mr McLeer's actions were a fundamental breach of the trust the public place in the profession.

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

Having found the facts of allegations 1 and 2 proven, the panel further found that Mr McLeer's conduct amounts 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 a number of them to be relevant in this case, namely the wellbeing of students, maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr McLeer, which involved findings of a lack of professional integrity and dishonesty in the conduct of public examinations which had the potential to negatively impact on pupils, there was a strong public interest in the wellbeing of pupils.

The panel also considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr McLeer were not treated with the utmost seriousness when regulating the conduct of the profession. The public, rightly, expect teachers to behave with honesty and integrity at all times. These are fundamental tenets of the profession. In that context, the panel considered Mr McLeer's actions damaged public confidence in him, as a professional, and the profession as a whole.

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

The panel also determined that there was some element of public interest with reference to Mr McLeer remaining in the profession. No doubt had been cast upon his abilities as a P.E. teacher, even if there was no evidence of an exceptional contribution to teaching. Whilst the misconduct took place over a prolonged period and was serious, this was an isolated episode in the context of his career as a whole. The panel was also presented

with some, if relatively limited positive evidence regarding his practice at the School. He had made some contributions to extra-curricular activities and school initiatives.

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 Mr McLeer.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr McLeer. 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;
- 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);
- dishonesty or a lack of integrity, especially where there have been serious consequences...
- collusion or concealment including:
 - lying to prevent the identification of wrongdoing;
- deliberate action in serious contravention of requirements for the conduct of an examination or assessment leading to an externally awarded qualification or national assessment (or deliberate collusion in or deliberate concealment of such action) particularly where the action had, or realistically had the potential to have, a significant impact on the outcome of the examination assessment;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel carefully considered the mitigating factors present in this case. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

In light of the panel's findings, the panel considered that there were the following mitigating circumstances:

- Mr McLeer has been re-employed by the School as a Cover Supervisor.
- Mr McLeer had a previously good record and his conduct appeared to be out of character given the positive references from his colleagues contained within the papers.

- There was evidence of health and other personal issues in Mr McLeer's life at the relevant time and that it was a period of significant and ongoing stress for him. This was acknowledged by the School.
- Mr McLeer's conduct may be seen as an isolated episode in an otherwise unblemished teaching career.
- Mr McLeer has demonstrated a deep regret and remorse in respect of his conduct. He took full responsibility for his actions and demonstrated an early awareness of the negative impact of his actions on the pupils and the School.

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 Mr McLeer of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate.

The panel decided that the public interest considerations present, as identified above, were particularly strong and outweighed the interests of Mr McLeer.

In arriving at this conclusion, the panel had regard to the fact that Mr McLeer fabricated pupils' grades in respect of two learning objectives, which meant this was not a momentary lapse and amounted to a serious breach of the Teachers' Standards. There was a clear public interest consideration in maintaining the integrity of public assessments/examinations.

The panel had concluded that Mr McLeer's actions were a deliberate attempt to mislead both the School and the moderator and he had disregarded examination regulations. In the panel's view, in these circumstances the nature and severity of the behaviour was at the serious end of the spectrum.

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 there are behaviours that, if proved, would militate against the recommendation of a review period. However, none of these behaviours were present.

The Advice also identifies factors that are likely to demonstrate that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. These factors include fraud or serious dishonesty.

However, the panel considered Mr McLeer has shown insight and remorse. In all the circumstances, it therefore concluded that the risk of repetition was limited. Further and in addition, having carefully considered references and testimonials presented, the panel considered that Mr McLeer has the potential to be an asset to the teaching profession.

For these reasons, the panel considered that a review period of 2 years was appropriate and proportionate. To the contrary and notwithstanding the fact that the Advice suggests a longer review period in cases of fraud or serious dishonesty, the panel was satisfied that a period in excess of 2 years would be disproportionate and punitive.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Shane McLeer should be the subject of a prohibition order, with a review period of 2 years.

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

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

The panel finds that the conduct of Mr McLeer fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of a lack of professional integrity and dishonesty in the conduct of public examinations which had the potential to negatively impact on pupils.

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

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "His actions put students at risk of not obtaining the relevant qualification, and had the potential of having a detrimental effect on their future as a result." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel has set out as follows, "Mr McLeer has demonstrated a deep regret and remorse in respect of his conduct. He took full responsibility for his actions and demonstrated an early awareness of the negative impact of his actions on the pupils and the School." I have therefore given this element some weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed that "an average member of the public would be shocked to learn a teacher had fabricated marks and deliberately flouted examination regulations." I am particularly mindful of the finding of dishonesty and a lack of integrity in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr McLeer himself. The panel has commented, "No doubt had been cast upon his abilities as a P.E. teacher, even if there was no evidence of an exceptional contribution to teaching. Whilst the misconduct took place over a prolonged period and was serious, this was an isolated episode in the context of his career as a whole. The panel was also presented with some, if relatively limited positive evidence regarding his practice at the School. He had made some contributions to extra-curricular activities and school initiatives." The panel has also noted that "There was evidence of health and other personal issues in Mr McLeer's life at the relevant time and that it was a period of significant and ongoing stress for him. This was acknowledged by the School."

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

In this case, I have placed considerable weight on the panel's comments that the public interest considerations present in this case outweigh the interests of Mr McLeer. The panel has said, "Mr McLeer fabricated pupils' grades in respect of two learning objectives, which meant this was not a momentary lapse and amounted to a serious breach of the Teachers' Standards. There was a clear public interest consideration in maintaining the integrity of public assessments/examinations."

I have also placed considerable weight on the finding of the panel that "Mr McLeer's actions were a deliberate attempt to mislead both the School and the moderator and he had disregarded examination regulations. In the panel's view, in these circumstances the nature and severity of the behaviour was at the serious end of the spectrum."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McLeer 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.

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 2-year review period.

The panel has noted that the Advice says that fraud or serious dishonesty is one of the factors that would weigh in favour of a longer review period. However, I have considered the panel's comments that "Mr McLeer has shown insight and remorse. In all the

circumstances, it therefore concluded that the risk of repetition was limited. Further and in addition, having carefully considered references and testimonials presented, the panel considered that Mr McLeer has the potential to be an asset to the teaching profession.”


I have considered whether a 2-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. In this case, I have agreed with the panel that a 2-year review period is appropriate and proportionate, and recognises that whilst the misconduct found proven is serious, there is a limited risk of repetition.

I consider therefore that a 2-year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Shane McLeer is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. He may apply for the prohibition order to be set aside, but not until 1 May 2026, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Shane McLeer remains prohibited from teaching indefinitely.

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

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

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

Decision maker: David Oatley

Date: 1 May 2024

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