



Teaching  
Regulation  
Agency

# **Mrs Elaine Lee: Professional conduct panel outcome**

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

**May 2024**

## Contents

Introduction .....	3
Allegations .....	4
Preliminary Applications .....	5
Summary Of Evidence .....	7
Documents .....	7
Witnesses .....	7
Decision And Reasons .....	7
Findings of fact .....	8
Panel's recommendation to the Secretary of State.....	24
Decision and reasons on behalf of the Secretary of State .....	28

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

<b>Teacher:</b>	Mrs Elaine Lee
<b>Teacher ref number:</b>	0207528
<b>Teacher date of birth:</b>	3 July 1965
<b>TRA reference:</b>	21280
<b>Date of determination:</b>	31 May 2024
<b>Former employer:</b>	Aldercar High School, Nottinghamshire

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 29 April to 1 May 2024 and 31 May 2024 by way of a virtual hearing, to consider the case of Mrs Elaine Lee.

The panel members were Ms Rosemary Joyce (teacher panellist – in the chair), Ms Emma Billings (lay panellist) and Ms Amanda Godfrey (former teacher panellist).

The legal adviser to the panel was Ms Maddie Taylor of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Mark Millin of Kingsley Napley LLP solicitors.

Mrs Lee was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 19 February 2024.

It was alleged that Mrs Lee was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a teacher at Aldercar High School:

1. Between around 29 November 2021 and 12 January 2022, in respect of the BTEC Level 3 Applied Law Exam she;
  - a) Encouraged and/or permitted pupils to send her their Part A notes for review, which they were not permitted to do;
  - b) Amended and/or added to the Part A notes prepared by the pupils as set out in Schedule A, in the exam when she was not permitted to do so;
  - c) Provided the amended and/or incorrect Part A notes to the pupils as set out in Schedule A during the exam.
2. On or around 12 January 2022, she;
  - a) Deleted an email sent to her by Pupil A and/or Pupil B which contained Pupil A's and/or Pupil B's original Part A notes in order to conceal the amendments she made to these notes;
  - b) When questioned about the email sent to her by Pupil A, she stated that she was unable to find this email when she was aware this had been deleted;
  - c) Said that she did not receive an email from Pupil B which contained Pupil B's original Part A notes.
3. Her actions at paragraph 1 and/or 2 were;
  - a) Dishonest;
  - b) Lacked integrity.

### Schedule A

- i. Pupil A; and/or
- ii. Pupil B; and/or

- iii. Pupil C; and/or
- iv. Pupil D; and/or
- v. Pupil E.

Mrs Lee made no admission of fact.

## **Preliminary applications**

### Application to proceed in the absence of the teacher

Mrs Lee was not present at the hearing nor was she represented. The Presenting Officer made an application to proceed in the absence of Mrs Lee.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to within it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mrs Lee in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures'). The panel received a bundle of over 60 pages in support of this application, demonstrating the efforts of the TRA to engage Mrs Lee in the process albeit to no avail. The panel also heard submissions from the Presenting Officer.

The panel concluded that Mrs Lee's absence was voluntary and that she was aware that the matter would proceed in her absence.

The panel noted that Mrs Lee had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure her attendance at a hearing. There was no medical evidence before the panel that Mrs Lee was unfit to attend the hearing. The panel also considered the effect on the witnesses of any delay, and that it was in the public interest for the hearing to take place.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mrs Lee was neither present nor represented.

### Application to admit additional documents

The panel considered a preliminary application from the Presenting Officer for the admission of an additional document.

The Presenting Officer's document was an anonymised pupil list running to one page.

The panel noted that although Mrs Lee had been served with the document at least four weeks before the hearing, members of the panel had not. Therefore, the document subject to the application had not been served in accordance with the requirements of paragraph 5.37 of the 2020 Procedures. Therefore, the panel was required to decide whether the document should be admitted under paragraph 5.34 of the 2020 Procedures.

The panel heard representations from the Presenting Officer in respect of the application.

As the panel were satisfied that Mrs Lee had been provided with the document, she would not be disadvantaged by the admission of the document into the bundle, and its inclusion would assist the panel throughout the hearing.

The panel considered the additional document was not only relevant but essential to the running of the hearing so that witnesses could properly cross-refer to key pupils without naming them.

Accordingly, the document was added to the bundle.

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

The Presenting Officer made an application that the statements of pupils and staff within the bundle who were not called to provide oral evidence be admitted as hearsay evidence in the absence of the witnesses. The panel received submissions from the Presenting Officer and legal advice.

The panel carefully considered the submissions made in determining whether it would be fair to admit the statements as hearsay evidence. The panel noted that the evidence of the witnesses was not the sole and decisive evidence in relation to the allegations.

Furthermore, the evidence was not such that the panel felt that it would be unable to test its reliability in the absence of the witnesses, as there were a number of documents within the bundle the panel could use to test the reliability of the hearsay evidence. The panel concluded that the balance of fairness was not against admitting the statements as hearsay evidence. Accordingly, the statements of the witnesses were admitted and considered in the panel's deliberations.

Having decided the hearsay evidence was admissible, the panel resolved to be mindful of the weight to be attached to the hearsay evidence throughout the hearing and during its deliberations.

## Summary of evidence

### Documents

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

- Section 1: Chronology and list of key people – pages 6 to 8
- Section 2: Notice of proceedings and response – pages 9 to 17
- Section 3: TRA witness statements – pages 18 to 42
- Section 4: TRA documents – pages 43 to 446

In addition, the panel agreed to accept the following:

- Anonymised pupil list, inserted at page 8 of the bundle.

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

### Witnesses

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

- Witness A; [REDACTED]
- Witness B; [REDACTED]
- Pupil A
- Pupil B

## Decision and reasons

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

On the 24 April 2021, Mrs Lee commenced substantive employment as a teacher at the School.

On the 12 January 2022, the BTEC Level 3 Applied Law exam took place.

On the 14 January 2022, Mrs Lee tendered her resignation.

On the 25 January 2022, the School conducted an investigation into the alleged actions of Mrs Lee.

On the 27 January 2022, the School completed a JCQ M3 form to report Mrs Lee's suspected malpractice or maladministration.

On the 28 October 2022, a malpractice committee meeting was held.

On the 23 November 2022, the matter was referred to the TRA.

## **Findings of fact**

The findings of fact are as follows:

- 1. Between around 29 November 2021 and 12 January 2022, in respect of the BTEC Level 3 Applied Law Exam you;**
  - a) Encouraged and/or permitted pupils to send you their Part A notes for review, which they were not permitted to do;**

The panel noted that the timeline of Mrs Lee's engagement by the School was not entirely clear. While the TRA's chronology stated that Mrs Lee's employment began on 24 April 2021, the panel heard from Witness B that Mrs Lee had worked at the School on a number of occasions across "*three or four years*", having been engaged on a number of fixed-term, temporary contracts, including some arranged through an agency.

Witness B clarified that Mrs Lee had been engaged on a substantive contract directly with the School from 24 April 2021. The panel was therefore satisfied that Mrs Lee was employed as a teacher at the School at the time of the allegations.

The panel noted emails in the bundle dated 29 November 2021 and that the BTEC Level 3 Applied Law exam took place on 12 January 2022. The panel was therefore satisfied that the dates provided in the allegation were accurate.

As a preliminary matter the panel considered what was meant by "Part A notes". For the BTEC Level 3 Applied Law exam on 12 January 2022, pupils were permitted by the exam board to prepare and have with them in the exam two A4-sides of notes. These notes were to assist pupils during the exam and act as an aide memoire and were required to be in the correct formatting as prescribed by the exam board. The pupils must have prepared the notes entirely independently. These were the "Part A notes".

The panel heard oral evidence from Pupil A and Pupil B, who both said that they had sent their Part A notes to Mrs Lee for her to "*review*".



Pupil B in particular stated that Mrs Lee had “*encouraged*” pupils to send their Part A notes to her for her to review.

The panel heard oral evidence from Pupil B that Mrs Lee had “*chased*” students, including Pupil B herself, for them to send her their Part A notes so she could review them.

The panel heard from Pupil A that her Part A notes had been emailed back and forth between her and Mrs Lee “*three or four times*” before the exam, with Mrs Lee making amendments and reformatting the document each time. The changes included amendments being made to font size and margins (which were permitted), but also reorganising the order of paragraphs and some content (which was not permitted).

The panel also considered Pupil D’s witness statement in which they stated Mrs Lee had “*asked that [the pupils] send her a copy*” of their Part A notes when they had finished preparing them.

The panel noted the significant amount of documentary evidence which showed pupils sending Mrs Lee their Part A notes.

The panel considered whether Mrs Lee had asked students to send her their Part A notes simply so she could collate them in readiness for them to be distributed to pupils during the exam on 12 January 2022.

However, having seen the number of emails exchanged back and forth between Mrs Lee and students, the countless different versions of the pupils’ Part A notes which changed over time following feedback from and amendments made by Mrs Lee, and the evidence from pupils that Mrs Lee had asked them to send her their Part A notes specifically so she could review them, the panel was satisfied that the purpose of pupils sending Mrs Lee their Part A notes was for her to review but also to revise them.

The BTEC Level 3 Applied Law course was administered by the Pearson examination board. The panel heard evidence from Witness A, [REDACTED] and the panel had sight of the guidance that Pearson issued with respect to the BTEC Level 3 Applied Law exam, and specifically with regards to the preparation of the Part A notes.

The panel noted that the Pearson guidance states that Part A notes should be prepared “*independently*” by each pupil. Specifically, the Pearson guidance states: “*teachers must not give any support to the notes and all work must be completed **independently** by the learner.*”

The panel noted an email from Mrs Lee to Witness A at 09:20 on 23 November 2021 in which Mrs Lee asked if information on the Part A notes for the BTEC Applied Law course had been released from the exam board yet.

At 09:23 on 23 November 2021, Witness A sent an email to Mrs Lee attaching the Pearson guidance.

The panel took this as compelling evidence that Mrs Lee was aware that there was a particular framework that she and the pupils would be expected to work within, and that Mrs Lee was in fact furnished with the details of that framework.

The panel also noted Witness B's oral evidence that Mrs Lee had been involved in a number of assessments for the BTEC Level 3 Applied Law course before, during her time with the School in previous years. Witness B explained that these assessments took place twice a year, and on the basis that Mrs Lee had been involved for the last three to four years, she had likely delivered this unit of work seven or eight times. Witness B stated that, to the best of his knowledge, the framework under which the assessment was conducted had not changed. The panel therefore concluded that Mrs Lee had some level of experience in administering assessments of this nature.

The panel noted that at no point did Mrs Lee flag to Witness A, Witness B or anyone else that pupils were sending her their Part A notes. The panel considered that, if pupils had been sending their Part A notes to Mrs Lee without having been invited to do so, and Mrs Lee had wanted to ensure the integrity of the process as well as protect her own position, she would have flagged this to a relevant colleague to ensure transparency and that nothing untoward was taking place.

The panel concluded that Mrs Lee was aware that pupils were not permitted to send their Part A notes to her for review.

The panel therefore deduced that pupils were not permitted to send their Part A notes to Mrs Lee for her to review, but that Mrs Lee had both permitted and encouraged them to do so.

Accordingly, the panel found allegation 1(a) proven.

**b) Amended and/or added to the Part A notes prepared by the pupils as set out in Schedule A, in the exam when you were not permitted to do so;**

The panel had sight of an extensive amount of documentation in the bundle which showed different versions of Part A notes being emailed by pupils individually to Mrs Lee, and back again. The panel saw several email threads i.e. more than just one email, which showed Part A notes being emailed back and forward between Mrs Lee and individual pupils a number of times. The panel felt that the significant number of examples of these different versions being exchanged in different emails would have served as sufficient evidence on its own to prove on the balance of probabilities that Mrs Lee had amended and/ or added to the Part A notes of the pupils in Schedule A.

The panel dealt with each pupil in Schedule A in turn.

## Pupil A

The panel had sight of and considered different versions of the Part A notes which Pupil A said had been edited by Mrs Lee.

The panel was compelled by Pupil A's comment during oral evidence that Mrs Lee had at one point sent Pupil A an amended version of her Part A notes which contained red highlighting on it, which Pupil A explained indicated parts of the document Pupil A needed to do more work on. The panel found the specificity of this comment convincing and had sight of the red highlighting itself within the documentary evidence.

Pupil A explained that she sent her Part A notes to Mrs Lee to review "*two or three times*" before the exam and that each time she sent the notes, Mrs Lee would suggest or make changes. Pupil A accepted that she found the back-and-forth review emails helpful as they provided some guidance as to what she should add to her Part A notes.

The panel had sight of emails which confirmed various emails had been exchanged between Mrs Lee and Pupil A, regarding the Part A notes.

As noted in allegation 1(a), the panel was aware that under the Pearson guidance, Mrs Lee was not permitted to make any amendment or addition to Pupil A's Part A notes.

The panel concluded that the allegation was proven with respect to Pupil A.

## Pupil B

The panel noted an email Pupil B sent to Mrs Lee at 09:53 on 22 December 2021 attaching her Part A notes.

Pupil B provided oral evidence that that Mrs Lee did not respond to that email until 02:26 on 12 January 2022 (the day of the exam). In that email from Mrs Lee to Pupil B, Mrs Lee attached a Part A notes document which was completely different to the one Pupil B had sent Mrs Lee on 22 December. As is dealt with in more detail with respect to the other allegations made against Mrs Lee, the Part A notes Mrs Lee emailed to Pupil B at 02:26 on 12 January were the Part A notes Pupil B was provided with in the exam.

The panel was compelled by Pupil B's account of the differences between her original Part A notes and the ones she was provided with in the exam. The panel found Pupil B to be a credible witness and she was able to point out the specific ways in which the versions of the Part A notes differed.

The panel looked at the Part A notes Pupil B had emailed Mrs Lee and the version Mrs Lee had amended and which were provided to Pupil B in the exam, and found that the differences were obvious and that Mrs Lee had either made significant amendments to Pupil B's Part A notes, or had provided Pupil B with a completely different document

altogether. Either way, the panel was satisfied that Mrs Lee had interfered with Pupil B's Part A notes in a manner which was not permitted within the Pearson guidance.

The panel concluded that the allegation was proven with respect to Pupil B.

### Pupil C

The panel noted an email in the bundle from Mrs Lee to Pupil C at 22:06 on 30 November 2021 in which Mrs Lee stated: *"please use the attached Part A document from now on and update your computer. I have, hopefully, made it easier for you to look at the information during your mock exam by highlighting some of the information. 2 weeks before your 12 January law exam, you will have time to improve your Part A document and reduce it to 2 sides of A4."* The email had an attachment titled "Part A Pupil C".

The panel also had sight of the notes from Pupil C's interview as part of the School's investigation, which recorded that Pupil C stated that Mrs Lee had emailed him *"a few days before the exam"* with a *"slightly altered version"* of his Part A notes. He stated that *"she took things out"* and had changed the *"wording and format"*. Pupil C felt he had *"done better"* in the exam as the Part A notes which had been amended and added to by Mrs Lee were *"better organised"* than the notes he had produced.

As previously stated, the panel was satisfied that Mrs Lee was not permitted to amend the Part A notes.

The panel concluded that the allegation was proven with respect to Pupil C.

### Pupil D

The panel considered the written statement of Pupil D, who stated that on the 29 November 2021, he sent Mrs Lee a copy of their part A document. Pupil D stated that Mrs Lee replied at 21:37 and the panel noted an email in the bundle at this time which stated: *"please use the attached Part A document from now on and update your computer. I have, hopefully, made it easier for you to look at the information during your mock exam by highlighting some of the information. 2 weeks before your 12 January law exam, you will have time to improve your Part A document and reduce it to 2 sides of A4."* The email had an attachment titled "Part A Pupil D".

The panel also noted that in Pupil D's witness statement, he stated that Mrs Lee had *"changed the order"* of the paragraphs in his Part A notes, *"to help me"*.

As previously stated, the panel was satisfied that Mrs Lee was not permitted to amend the Part A notes. On this point, the panel noted Pupil D's witness statement in which he said that he believed Part A was supposed to be completed under supervised conditions in class, but that Mrs Lee had *"assisted us with the preparation of this document during class"*.

The panel concluded that the allegation was proven with respect to Pupil D.

### Pupil E

The panel considered the written note of the interview the School conducted with Pupil E as part of their investigation. Pupil E recalled that he had sent Mrs Lee his Part A notes before the Christmas break and that she had sent it back to him and "*corrected it*". He further stated that the answers had been changed to help the class pass the exam. The panel took "*answers*" to mean the Part A notes.

Pupil E said that he was not happy about Mrs Lee changing the notes, and furthermore that he was given the amended version of the Part A notes in the actual exam. With respect to the Part A notes he was provided with in the exam, he stated that he "*did not recognise it at all*" and that the changes had made the notes "*more technical*".

As previously stated, the panel was satisfied that Mrs Lee was not permitted to amend the Part A notes.

The panel concluded that the allegation was proven with respect to Pupil E.

The panel noted the consistent evidence from pupils regarding their class on 14 January 2022, two days after the exam had taken place. The pupils all reported that Witness B had asked the class if there was anything they wanted to discuss with him regarding the exam, no one had responded, and Witness B left the room. Witness B corroborated this within his witness evidence.

The pupils recalled that after the door had closed behind Witness B, Mrs Lee said words to the effect of her being "*glad*" no one had told Witness B that she had changed their notes.

Pupil A recalled Mrs Lee stating that she had changed Pupil A and Pupil B's notes because they would have failed if she had not done so. She further recalled Mrs Lee saying to the male pupils in the class, "*I am glad you two did not say anything because I changed yours as well*".

Pupil B also recalled Mrs Lee saying that Pupil B and Pupil A would have failed if Mrs Lee had not changed their notes. Pupil B stated that her and Pupil A explained they would have rather failed with their own Part A notes, than passed by using Mrs Lee's amended notes. Pupil B recalled Mrs Lee saying she was glad the pupils had kept quiet as she had changed "*most*" of their Part A notes.

In Pupil C's interview conducted by the School as part of their investigation, he reported Mrs Lee had said "*I'm glad you kept your mouth shut*" about her having changed the Part A notes.

Pupil D's witness statement recalled Mrs Lee saying she was glad the pupils did not say anything to Witness B about her "*altering*" the Part A paperwork.

The panel found the consistency in these recollections to be compelling evidence that Mrs Lee had not only amended or added to the pupils' Part A notes, but that she was aware that she was not permitted to do so.

The panel found allegation 1(b) proven.

**c) Provided the amended and/or incorrect Part A notes to the pupils as set out in Schedule A during the exam.**

The panel dealt with each pupil in Schedule A in turn.

Pupil A

The panel heard from Pupil A that she had emailed a final version of her Part A notes to Mrs Lee at 23:47 on 11 January 2022, and the panel had sight of this email.

Pupil A explained that Mrs Lee had responded to that email at approximately 02:30 on 12 January 2022, attaching an amended version of Pupil A's Part A notes. Pupil A explained that she did not have sight of this email before she entered the exam.

The panel heard from Pupil A that she was offered two versions of Part A notes at the beginning of the exam on 12 January, both of which had Pupil A's name at the top.

Pupil A selected the version of the notes which she believed to be hers and the exam began.

However, the panel heard evidence that, as the exam progressed, Pupil A became aware that the Part A notes she had in front of her were not the ones she had prepared.

Pupil A explained that the Part A notes that she was provided at the beginning of the exam contained acronyms and abbreviations that she did not understand and which made it confusing and difficult for her to complete the exam.

Pupil A explained that she flagged the issue to the [REDACTED]. The [REDACTED] then spoke with Witness A, who in turn went to speak with Mrs Lee. In her oral evidence, Witness A described that when she located Mrs Lee, she told her that there was an issue with Pupil A's Part A notes. Witness A asked Mrs Lee to print off a new copy of Pupil A's Part A notes, but Witness A recalled Mrs Lee "*pretending to not know how to search her emails*".

Witness A described how she checked Mrs Lee's deleted items, but that the folder was completely empty. Witness A then recovered items which had been recently deleted from

Mrs Lee's deleted folder. Witness A recalled that Mrs Lee appeared surprised that Witness A was able to do this.

Witness A located the email Pupil A had sent to Mrs Lee at 23:47 the night before. The attached Part A notes were printed off and provided to Pupil A with eight minutes remaining in the exam. Pupil A confirmed that she was given the correct Part A notes with eight minutes to go in the exam.

The panel compared the version of the Part A notes Pupil A was originally provided with in the exam against the version Pupil A had emailed Mrs Lee at 23:47 on 11 January and noted the differences between the two. The panel concluded that Pupil A had been expecting to be provided with the Part A notes she had emailed to Mrs Lee at 23:47 in the exam but had in fact been provided with an amended version of the notes.

The panel therefore felt that Pupil A had been provided with Part A notes which were both amended and incorrect, in that they were not the ones which Pupil A had produced.

The panel found allegation 1(c) proven with respect to Pupil A.

#### Pupil B

The panel heard evidence from Pupil B that she had emailed Mrs Lee her Part A notes on 22 December 2021. Mrs Lee had not responded to that email until 02:26 on 12 January 2022, when she had emailed Pupil B a new version of the Part A notes. The content of the email read: "*Please find attached your Part A*". Pupil B did not check her emails before the exam, so did not see this email prior to the exam.

Pupil B stated that before the start of the exam, Part A documents were handed out to everyone. She stated that she knew she had been given the wrong document straight away as the information was set out in a different way.

Pupil B explained that as the Part A she had been given contained less information than the one she had prepared, she could hardly complete any of the questions. She stated that she had not seen this Part A document before, and it was not useful to her.

Pupil B stated that about 15 minutes into the exam, she told the [REDACTED] that she had the incorrect document. She stated that she did not flag the issue straight away as she sat in confusion looking at the other pupils to see if anyone had reacted in the same way when being given their sheet, so that she would know if it was just her. Pupil B submitted that the [REDACTED] told her to "*carry on for now*", and she left the room to try and find the correct document for her.

The panel compared the Part A notes Mrs Lee had emailed to Pupil B on 12 January to the ones Pupil B was provided with in the exam and concluded that they were the same document.

The panel was struck by the fact that what Pupil B had emailed Mrs Lee on 22 December 2021 and the Part A notes Mrs Lee had emailed her at 02:26 on the day of the exam and which Pupil B had actually been provided in the exam were completely different.

Unlike with Pupil A, Witness A was not able to locate Pupil B's actual Part A notes before the exam finished. Therefore, Pupil B completed the exam without ever having sight of her own Part A notes.

The panel found allegation 1(c) proven with respect to Pupil B.

#### Pupil D

The panel considered the written statement of Pupil D, who stated that in the exam they were provided with a Part A document that Mrs Lee had altered, and the document they were provided with was a different version from the most recent Part A document they had sent to Mrs Lee.

The panel noted that Mrs Lee emailed Pupil D at 10:39 on 11 January 2022 enclosing an attachment of Part A notes. That attachment was the version of Part A notes Pupil D was provided with in the exam.

The panel considered the interview notes from the interview with Pupil D, who stated that he did not get given his original Part A notes in the exam, but they had no issues with the Part A they were given.

The panel had sight of part of the most recent Part A notes Pupil D had emailed to Mrs Lee, and a full copy of the Part A notes Pupil D was provided with in the exam. Even having only seen a portion of the Part A notes Pupil D had emailed to Mrs Lee, the panel was satisfied that there were significant differences between that version and what Pupil D was provided in the exam. The panel concluded Pupil D had been provided with an amended version of his own Part A notes in the exam.

The panel found allegation 1(c) proven with respect to Pupil D.

#### Pupils C and E

The panel noted that they were not presented with documentary evidence to confirm that Pupils C and E were given amended or incorrect Part A notes during the exam. The panel felt that because of this, they could not conclude absolutely which documents Pupils C and E were provided in the exam.

However, based on Pupil C's comment in his interview for the School's investigation that he was "*given the adapted Part A in the exam*", Pupil E's comment in his interview for the School's investigation that he was "*not given his work for the exam*" and that he "*did not recognise [the Part A document he was given in the exam] at all*", and the pupils' compelling evidence that Mrs Lee had told them in class on 14 January that she had



made changes to “most” of the Part A notes the pupils were given in the exam, the panel concluded on the balance of probabilities that Pupils C and E were provided with amended and/or incorrect Part A notes in the exam.

The panel therefore found allegation 1(c) proven with respect to Pupils C and E.

The panel has already, at allegation 1(b) dealt with the conversation which took place on 14 January 2022 in which Mrs Lee explained she had provided “most” of the pupils with amended notes in the exam and specifically that she had changed Pupil A and Pupil B’s notes as she thought they would fail if they used their original notes. This point is relevant again when dealing with this allegation, as the panel concluded that Mrs Lee intentionally provided amended and/ or incorrect Part A notes to pupils in the exam.

The panel found allegation 1(c) proven.

## **2. On or around 12 January 2022, you;**

- a) Deleted an email sent to you by Pupil A and/or Pupil B which contained Pupil A’s and/or Pupil B’s original Part A notes in order to conceal the amendments you made to these notes;**

The panel heard from both Pupil A and Pupil B that they had not been provided with the correct version of their Part A notes at the beginning of the exam on 12 January 2022.

The panel heard from Witness A that, once Pupil A and Pupil B flagged that there was an issue with their Part A notes during the exam, Witness A found Mrs Lee in her classroom and asked her to show her the emails from Pupil A and Pupil B respectively, enclosing their Part A notes. Witness A recalled that Mrs Lee presented as pretending that she did not know how to search her emails. The panel agreed that it was unlikely in the modern world that a teacher would not know how to search their own emails, and further noted Witness B’s oral evidence that Mrs Lee had previously taught IT at Key Stage 3/4.

Witness A stated that she helped Mrs Lee search her emails, but Mrs Lee did not have anything in her emails from Pupil A or Pupil B. Witness A stated that she looked in Mrs Lee’s deleted items on her emails but found the folder to be completely empty. Witness A then sought to recover items which had been recently deleted from Mrs Lee’s deleted items. Witness A recalled that when she did this, Mrs Lee seemed surprised that it was possible to recover deleted items.

Witness A was frustrated by Mrs Lee’s lack of urgency in seeking to locate the Part A notes, given that the issue was time critical as the exam had already started and was ongoing. Witness A stated that when she recovered the previously deleted items, she found the emails from Pupil A and Pupil B enclosing the original Part A notes they had provided to Mrs Lee.

The panel was shown relevant screenshots to demonstrate Pupil A and Pupil B had emailed Mrs Lee their Part A notes.

Dealing first with Pupil A, the panel saw a screenshot from Mrs Lee's deleted items in her email account. The screenshot showed an email sent from Pupil A to Mrs Lee at 23:47 on 11 January 2022, containing an attachment of Pupil A's original Part A notes. The panel was therefore satisfied that Mrs Lee had deleted this email.

With respect to Pupil B, the panel saw a screenshot from Pupil B's sent items in her email account. The screenshot showed an email sent from Pupil B to Mrs Lee at 09:53 on 22 December 2021, containing an attachment of Pupil B's original Part A notes. The panel was therefore satisfied that this email had been sent, and that the reason it was not in Mrs Lee's inbox was because she had deleted it. The email was recovered from Mrs Lee's recently deleted items.

Having concluded that Mrs Lee had, in fact, deleted the emails which contained Pupil A and Pupil B's original Part A notes, the panel moved to consider if Mrs Lee had done this with the intention of concealing the amendments she had made to the notes. The panel accepted that Mrs Lee has not engaged with the TRA's process and so the panel had not heard any direct evidence from Mrs Lee on her intention in deleting the emails.

Having received legal advice, the panel considered and ultimately resolved to draw an adverse inference from Mrs Lee's non-attendance at the hearing and non-engagement in the TRA process.

In the absence of any innocent alternative explanation, the panel concluded that Mrs Lee had deleted the emails with the intention of concealing the amendments she had made to the Part A notes. This was consolidated by the comments made by Mrs Lee on 14 January 2022 in which she expressed gratitude to the pupils for not telling Witness B that she had changed their Part A notes. The panel also considered evidence from Pupil A that she felt Mrs Lee had wanted to "*sweep things under the carpet*", and from Pupil B that Mrs Lee wanted to "*cover things up*".

The panel found it significant that the emails were ultimately recovered by Witness A after they had been deleted from Mrs Lee's deleted items – the email had been "double-deleted". The panel considered whether it would be possible for Mrs Lee to have accidentally double-deleted the email but concluded that ultimately this was not likely. The panel also found it compelling that Mrs Lee had deleted the entirety of her deleted items and in the absence of any reasonable, innocent alternative explanation, concluded that she had done this to conceal evidence of her having amended the pupils' Part A notes.

The panel concluded that Mrs Lee was capable of being calculating, and that the deletion of the emails was another example of this. The panel found that Mrs Lee's intention when deleting the emails containing Pupil A and Pupil B's original Part A notes was to conceal that she had made amendments to those notes, when she knew she was not permitted to make such amendments.

The panel found allegation 2(a) proven.

**b) When questioned about the email sent to you by Pupil A, you stated that you were unable to find this email when you were aware this had been deleted;**

The panel considered the evidence of Witness A that Mrs Lee had pretended not to know how to search her emails, when asked to do so.

While the panel ultimately concluded that Mrs Lee had been intentionally evasive in the efforts to locate Pupil A's original Part A notes during the exam, the panel was not presented with any compelling evidence to suggest Mrs Lee had "stated" she was "unable" to find the email containing Pupil A's original Part A.

Therefore, on the balance of probabilities the panel was unable to factually establish that Mrs Lee was questioned about Pupil A's email and that she had responded that she was unable to find the email.

However, the panel still went on to consider if Mrs Lee was aware that the email had been deleted.

As discussed above with reference to allegations 2(a), the panel concluded on the balance of probabilities that Mrs Lee had intentionally deleted the email, and subsequently deleted the contents of her deleted mail folder. The panel found that the fact the email had been "double-deleted" was clear evidence that Mrs Lee had intentionally deleted it, and the fact that Mrs Lee was surprised that Witness A was able to retrieve the email demonstrated that Mrs Lee was not aware this was possible. The panel felt that Mrs Lee thought she had deleted the email in a way that meant it could not be located again.

The panel therefore concluded that while they could not establish that Mrs Lee had stated she was "unable" to find the email, she was in fact aware that the email had been deleted.

In the absence of evidence that Mrs Lee had stated that she was unable to find the email containing Pupil A's original part A notes, the panel were not able to find allegation 2(b) proven.

**c) Said that you did not receive an email from Pupil B which contained Pupil B's original Part A notes.**

The panel noted numerous pieces of evidence that after the exam on 12 January 2022, the following individuals met in a room: Pupil A, Pupil B, Mrs Lee, Witness B, Witness A and Individual A [REDACTED]. The panel had sight of a note of the meeting, produced contemporaneously, which was in the bundle.

The panel heard oral evidence from Witness B and Pupil B that during that conversation, Mrs Lee denied ever having received Pupil B's original Part A notes. Pupil B recalled that she had insisted that she had emailed Mrs Lee her Part A notes, but that Mrs Lee continued to deny this.

Pupil B explained that she then went onto her own emails to locate the original email she had sent Mrs Lee. Both Pupil B and Witness B confirmed in oral evidence that Pupil B "showed" Witness B that email during the meeting. Pupil B also stated that she then forwarded the original email from 22 December 2021 onto Mrs Lee in order to prove that she had in fact sent the email. The panel had sight of a screenshot showing that Pupil B had forwarded that original email at 13:04 on 12 January 2022, which the panel found to be consistent with Pupil B's account that she had forwarded the original email shortly after the exam.

The panel considered the oral evidence and witness statement of Witness A, who stated that she helped Mrs Lee search her emails, but Mrs Lee said that she did not have anything in her emails from Pupil B. Witness A stated that the deleted items box in her email was also searched, but there were no emails at all in the deleted items, and it was all empty.

Witness A then sought to recover items which had been recently deleted, and in doing so found several emails including the one from Pupil B enclosing her original Part A notes on 22 December 2021.

The panel found this consistent with the allegation that Mrs Lee denied having ever received Pupil B's original Part A notes, and that she had deleted the email.

The panel found allegation 2(c) proven.

### **3. Your actions at paragraph 1 and/or 2 were;**

#### **a) Dishonest;**

The panel considered whether Mrs Lee had acted dishonestly. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel firstly sought to ascertain the actual state of Mrs Lee's knowledge or belief as to the facts.

The panel concluded that, given Mrs Lee's experience and that she had requested and been emailed the relevant guidance regarding the BTEC Level 3 Applied Law exam,

there could be no doubt that Mrs Lee knew that her actions were not in line with what was expected of her.

The panel further concluded that Mrs Lee had taken active, decisive steps in order to have double-deleted the emails from Pupils A and B in an attempt to conceal that she had reviewed and amended their Part A notes. The panel concluded that the deletion was therefore intentional.

The panel felt there was evidence that Mrs Lee had been evasive and obfuscating when Witness A and Witness B were attempting to resolve the issue of getting the correct Part A notes to the pupils on the day of the exam, such as by pretending that she did not know how to search her emails.

The panel also felt that Mrs Lee's comments to the pupils on 14 January 2022 when she stated she was glad that they had not told Witness B that she had changed their Part A notes demonstrated that she was aware she had done something dishonest and unacceptable. The panel was concerned that Mrs Lee sought to involve the pupils in her own dishonesty by essentially admitting she had done something wrong but implying that she wanted them to remain silent on the issue.

The panel considered that the actions of Mrs Lee had undoubtedly been dishonest according to the standards of ordinary decent people.

The panel found allegation 3(a) proven.

#### **b) Lacked integrity.**

The panel considered whether Mrs Lee had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority* and was mindful that professionals are not expected to be "*paragons of virtue*".

However, the panel was satisfied that Mrs Lee had acted deliberately in contravention of the Pearson guidance, which in turn amounted to a clear failure to act within the higher standards expected of a teacher. The panel was therefore satisfied that Mrs Lee's conduct with respect to allegations 1 and 2, as found proven, lacked integrity.

The panel felt there was compelling evidence that Mrs Lee was attempting to artificially inflate the exam performance of the pupils by amending their Part A notes, in that she told Pupils A and B that she had changed their Part As because they would have failed if she had not done so. The panel also noted evidence from pupils that Mrs Lee had said she was "*trying to help them*" by changing their Part A notes. The panel took this to mean that Mrs Lee was trying to help the pupils achieve a higher grade in the exam than they would have achieved if they had used the Part As they had prepared themselves. The panel concluded that in doing this, Mrs Lee sought to compromise the integrity of the examination process.

The panel considered a combination of written and oral evidence from Pupils A, B and D that after Witness B left the room, Mrs Lee asked the pupils to inform her if they were going to report her, so that she could resign first.

The panel noted Pupil D's written evidence that Mrs Lee became "*distressed*" when Pupils A and B did not return to class after the break. Pupil D recalled that Mrs Lee had commented that it "*looked like*" the pupils "*were going to report her*". The panel felt that Mrs Lee had deduced that the pupils had gone to tell Witness B what Mrs Lee had done with respect to the Part A notes, and that Mrs Lee wanted to resign from her role before any investigation or disciplinary process was carried out.

The panel noted that Mrs Lee resigned from her position without notice and with immediate effect on 14 January 2022, mere hours after Witness B had asked the pupils if they had concerns about their Part A notes and after Pupils A and B had left Mrs Lee's lesson during the break and not returned to her classroom.

The panel felt that Mrs Lee's approach to resigning was also indicative of a lack of integrity.

The panel found allegation 3(b) proven.

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

Having found all but one 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 Lee, in relation to the facts found proved, involved breaches of the Teachers' Standards.

The panel considered that, by reference to Part 1, Mrs Lee was in breach of the following standards:

- Set high expectations which inspire, motivate and challenge pupils:
  - demonstrate consistently the positive attitudes, values and behaviour which are expected of pupils.
- Promote good progress and outcomes by pupils:
  - be accountable for pupils' attainment, progress and outcomes.

- encourage pupils to take a responsible and conscientious attitude to their own work and study.
- Manage behaviour effectively to ensure a good and safe learning environment:
  - maintain good relationships with pupils, exercise appropriate authority, and act decisively when necessary.
- Fulfil wider professional responsibilities:
  - make a positive contribution to the wider life and ethos of the school.

The panel considered that, by reference to Part 2, Mrs Lee was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
- 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 was satisfied that the conduct of Mrs Lee amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mrs Lee's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that the offence of fraud or serious dishonesty was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can

hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

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

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

Having found the facts of allegations 1(a), 1(b), 1(c), 2(a), 2(c), 3(a) and 3(b) proved, the panel further found that Mrs Lee's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.

The panel was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, specifically: the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct, and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mrs Lee, which included that she encouraged and permitted pupils to gain an unfair advantage in an examination in breach of examination guidance, sought to conceal evidence of her wrongdoing and acted dishonestly, there were strong public interest considerations, as outlined above. The panel felt that the three aforementioned public interest considerations referenced in the Advice were all relevant in this case.



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

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

The panel decided that there could be a public interest consideration in retaining Mrs Lee in the profession, since no doubt had been cast upon her abilities as an educator.

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 Lee. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mrs Lee. 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 the panel determined were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- violation of the rights of pupils;
- 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:
  - concealing inappropriate actions;
  - encouraging others to break rules;
  - 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;

- knowingly manipulating data to benefit and/or enhance a school's exam results.

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 Lee's actions were not deliberate.

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

There was no evidence to suggest that Mrs Lee demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector. The panel noted Witness B's evidence that Mrs Lee had kept to herself within the School and did not engage widely in the School community.

The panel noted that there was a lack of evidence of insight or remorse on the part of Mrs Lee. This was one of the most significant points the panel considered in their deliberations. The panel felt that the conduct itself was at the lesser end of the scale in terms of seriousness and that if Mrs Lee had engaged with the regulatory process and presented evidence to demonstrate insight or remorse, or at the very least recognition that her conduct was unacceptable, the panel may have been compelled to not recommend a prohibition order. However, in the absence of any engagement by Mrs Lee in this process, the panel were not able to consider any such evidence.

The panel were unable to conclude that there was no risk of Mrs Lee repeating this type of conduct, as once again Mrs Lee's non-engagement with this process meant they did not hear any evidence on this point.

The panel 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 Lee 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 Lee in this respect. The dishonesty and lack of integrity shown by Mrs Lee through her

conduct was a significant factor in forming that opinion. The panel also felt it significant that Mrs Lee had – to an extent – implicated and involved pupils in her unacceptable behaviour and essentially encouraged pupils to be dishonest. The panel noted that pupils, parents and the wider community have an expectation that teachers will show and guide pupils through the proper channels and behaviours when it comes to exam conduct. In this case, Mrs Lee actively led pupils in the wrong direction and failed to meet the standards – both regulatory and moral – expected of teachers.

Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the prohibition order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would suggest against the recommendation of a review period. The panel noted that none of these behaviours were relevant in this case.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours includes fraud or serious dishonesty. The panel found that Mrs Lee was responsible for permitting pupils to send their Part A notes to her for review, amending pupils' Part A notes and providing these to pupils in the exam, deleting an email sent to her by Pupil A and/or Pupil B relating their Part A notes, denying she had received an email from Pupil B with Pupil B's part A notes and acting dishonestly and/or with a lack of integrity.

The panel considered that the allegations as found proven were fundamentally serious and specifically so due to the dishonesty and lack of integrity demonstrated.

The panel considered what would be an appropriate timeframe to allow Mrs Lee to reflect on her actions and provide her with sufficient opportunity to demonstrate insight and remorse for her actions, allowing her the chance to return to 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 of two 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/or conduct that may bring the profession into disrepute.

In this case, the panel has also found one 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 Elaine Lee should be the subject of a prohibition order, with a review period of two years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
- 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 Lee fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include acting dishonestly and in ways that lacked integrity.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct 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 Lee, 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 recorded that it "... felt it significant that Mrs Lee had – to an extent – implicated and involved pupils in her unacceptable behaviour and essentially encouraged pupils to be dishonest." It is my view that, in doing so, Mrs Lee created a risk that her behaviour would cause her pupils upset and/or anxiety. 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 noted that there was a lack of evidence of insight or remorse on the part of Mrs Lee. This was one of the most significant points the panel considered in their deliberations. The panel felt that the conduct itself was at the lesser end of the scale in terms of seriousness and that if Mrs Lee had engaged with the regulatory process and presented evidence to demonstrate insight or remorse, or at the very least recognition that her conduct was unacceptable, the panel may have been compelled to not recommend a prohibition order. However, in the absence of any engagement by Mrs Lee in this process, the panel were not able to consider any such evidence."

In my judgement, the lack of insight and remorse demonstrated by Mrs Lee 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 findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on Mrs Lee's status as a teacher, potentially damaging the public perception." I am particularly mindful of the finding of dishonesty in this case and the impact that such a finding could 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 Lee herself. While the panel does note that no doubt had been cast on her abilities as an educator it also records that: "There was no evidence to suggest that Mrs Lee demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector. The panel noted Witness B's evidence that Mrs Lee had kept to herself within the School and did not engage widely in the School community."

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. I have also considered and given weight to the panel's comments regarding the risk of repetition: "The panel were unable to conclude that there was no risk of Mrs Lee repeating this type of conduct, as once again Mrs Lee's non-engagement with this process meant they did not hear any evidence on this point."

I have given less weight in my consideration of sanction therefore, to the contribution that Mrs Lee 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 and 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 two-year review period.

In doing so, the panel has referred to the Advice which indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours includes fraud or serious dishonesty. The panel found that Mrs Lee was responsible for permitting pupils to send their Part A notes to her for review, amending pupils' Part A notes and providing these to pupils in the exam, deleting an email sent to her by Pupil A and/or Pupil B relating their Part A notes, denying she had received an email from Pupil B with Pupil B's part A notes and acting dishonestly and/or with a lack of integrity.

I have noted the panel's comments that in making its recommendation it had "...considered what would be an appropriate timeframe to allow Mrs Lee to reflect on her

actions and provide her with sufficient opportunity to demonstrate insight and remorse for her actions, allowing her the chance to return to the profession”.

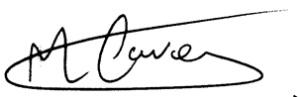
I have considered whether a two-year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. I have concluded that such a period is a proportionate response to the misconduct found in this case and should afford Mrs Lee the time to demonstrate the insight and remorse that would provide reassurance that she would not repeat this misconduct in the future.

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

**This means that Mrs Elaine Lee 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 10 June 2026, two 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 Lee remains prohibited from teaching indefinitely.

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

Mrs Elaine Lee 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 'M Cavey', enclosed in a thin black rectangular border.

**Decision maker: Marc Cavey**

**Date: 3 June 2024**

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