



Teaching
Regulation
Agency

Mr Lee Brookes: Professional conduct panel outcome

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

July 2024

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

Teacher: Mr Lee Brookes
TRA reference: 21421
Date of determination: 24 July 2024
Former employer: Build a future Independent School, Lincolnshire

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 22 to 24 July 2024 by way of a virtual hearing, to consider the case of Mr Lee Brookes.

The panel members were Ms Louisa Munton (teacher panellist – in the chair), Ms Debra Vaughan (lay panellist) and Ms Christine Cunniffe (teacher panellist).

The legal adviser to the panel was Ms Rebecca Hughes of Birketts LLP solicitors.

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

Mr Brookes 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 10 May 2024.

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

1. On or around 24 November 2021, he used a hammer to hit and/or smash a pool table, witnessed by staff and/or pupils.
2. His actions at paragraph 1 placed staff and/or pupils with social, emotional mental health needs at risk of harm and/or distress.
3. In or around November 2021, he made comments of an inappropriate and/or sexual nature and/or swore at and/or in front of pupils.

Mr Brookes made no admission of fact in respect of the allegations. However, the panel noted that Mr Brookes, in his written statement, did admit that he damaged the pool table but that he was doing so in an attempt to decommission the pool table to prevent further incidents and that no learners or staff were in the room.

Preliminary applications

Application to admit additional documents

The panel identified that Mr Brookes had provided a bundle of documents titled late papers teachers submissions, and the documents subject to the application had not been served per the requirements of paragraph 5.37 of the 2020 Procedures. The teacher's bundle of documents included:

- Statement to Witness A's witness statement.
- Statement to Individual B's witness statement.
- Statement to Pupil J witness statement.
- Character statement from Individual C.
- Unedited Exhibit A – Investigation summary report, dated 01/02/2022.
- Kingsley Napley Information report.

The panel also considered a preliminary application from the presenting officer for the admission of additional documents. The presenting officer's documents were:

- A correspondence bundle.
- Appendices to skeleton argument.

The documents from the teacher referred to above, and the presenting officer 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 documents should be admitted under paragraph 5.34 of the 2020 Procedures.

The panel heard representations from the presenting officer regarding his application and the admission of Mr Brookes' documents. The presenting officer did not object to the admission of Mr Brookes' documents.

The panel considered that Mr Brookes' additional documents were relevant, and it was in the interest of Mr Brookes to admit these documents, as this provided details he proposed to rely on in response to the allegations.

The panel considered the TRA's additional documents were relevant, as they related to the application to admit the TRA's witness statements as hearsay. The panel considered it was in the interest of justice to admit these documents, particularly as they related to an application being made by the presenting officer.

Accordingly, the documents were added to the bundle.

Application to proceed in the absence of the teacher

Mr Brookes was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Brookes.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba [2016]*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Brookes in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures').

On 5 July 2024, Mr Brookes emailed Sophie Allen, of Kingsley Napley LLP solicitors, to confirm that he had changed his mind about attending and that, upon receiving the documentation, he had "*decided not to attend the hearing.*"

The panel also noted that Mr Brookes had submitted his response to the allegations and the TRA's witness statements in his documents titled late papers. Therefore, he had engaged in the process but chose not to attend the hearing.

The panel, therefore, concluded that Mr Brookes' absence was voluntary and that he was aware that the matter would proceed in his absence.

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

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 the teacher was neither present nor represented.

Application for statements of witnesses to be admitted as hearsay

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

After receiving written and oral submissions from the presenting officer and receiving legal advice, the panel made the following decision.

As part of its consideration, the panel's attention was drawn to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)*, which set out the relevant principles which emerged from previous authorities. The High Court's judgment in the case of *El Karout v Nursing and Midwifery Council [2019] EWHC 28 (Admin)* followed the judgment in *Thorneycroft*, that admissibility and weight are distinct and separate issues.

The panel carefully considered the submissions made in determining whether it would be fair to admit the statements as hearsay evidence.

Pupil J

The panel noted that although no medical evidence has been provided in support of the application, it had been provided with emails from Pupil J's [REDACTED] to confirm that Pupil J was [REDACTED]. The panel, therefore, had evidence that the TRA had sought to secure Pupil J to give evidence at the hearing but that they were unable to secure Pupil J's attendance due to Pupil J's [REDACTED].

The panel noted that the evidence of the witness 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 witness.

The panel noted that Mr Brookes had provided his comments on Pupil J's statement.

The panel concluded that the balance of fairness was not against admitting the statement as hearsay evidence. Accordingly, the statement of Pupil J will be admitted and will be considered in the panel's deliberations.

Individual B

The panel considered the correspondence bundle provided titled "*Correspondence Bundle Individual B*", which contained evidence of the attempts made to secure Individual B to give evidence at the hearing. The presenting officer submitted that this evidence demonstrated that attempts had been made to secure Individual B's attendance. However, Individual B had stopped engaging. In particular, the panel noted that they had gone as far as going to Individual B's latest known place of work to try to secure her attendance at the hearing.

The panel noted that the witness's evidence 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 witness.

The panel noted that Mr Brookes had provided his comments on Individual B's statement.

The panel concluded that the balance of fairness was not against admitting the statement as hearsay evidence. Accordingly, Individual B's statement will be admitted and considered in the panel's deliberations.

Application to amend allegation 1

On the second day of the hearing, the presenting officer made an application to amend allegation 1, changing "*witnessed*" to "*heard*" or, in the alternative removing the words "*witnessed by staff and/or pupils*".

The presenting officer made submissions.

The panel noted that the teacher had not been informed of the proposed changes to the allegations.

The panel was advised that it had the power to amend allegations in accordance with paragraph 5.83 of the 2020 Procedures.

The panel considered that the proposed amendments would not change the nature and scope of the allegations but that the proposed amendment did change the seriousness of the allegation, as witnessing Mr Brookes using a hammer to hit and/or smash a pool table was more serious than hearing. As such, the panel considered that the proposed amendments did amount to a material change to the allegation.

The legal adviser drew the panel's attention to the case of *Dr Bashir Ahmedsowida v General Medical Council [2021] EWHC 3466 (Admin), 2021 WL 06064095*, which held that the lateness of amendments did not necessarily mean they were unjust, as acknowledged in the previous case of *Professional Standards Authority v Health and Care Professions Council and Doree [2017] EWCA Civ 319 at [56]*.

The panel was also of the view that granting the application for the proposed amendments may cause unfairness and/or prejudice to Mr Brookes on the basis that Mr Brookes had not been informed of the amendments nor had he been given the opportunity to respond to the amended allegations.

Accordingly, the panel did not grant this application and considered the original, un-amended allegations, which are set out above.

Further, at the end of the second day of the hearing, after the hearing had been concluded, the presenting officer informed the legal adviser that he would like to make a further application to amend allegation 1. The panel considered that in accordance with paragraph 5.83 of the 2020 Procedures, it had the power to amend an allegation or the particulars of an allegation at any stage before making its decision about whether the facts of the case have been proved. As the panel had already made a finding of fact, on the morning of the third day of the hearing, it informed the presenting officer that it was no longer able to consider the application to amend the allegation or the particulars of the allegation.

Summary of evidence

Documents

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

- Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 7
- Section 2: Notice of hearing – pages 8 to 15
- Section 3: TRA witness statements – pages 16 to 27
- Section 4: TRA documents – pages 28 to 136

In addition, the panel agreed to accept the following:

- Section 5: Late Papers Teacher Submission Bundle – pages 137 to 162
- Section 6: PIA bundle – pages 163 – 170
- Section 7: Appendices to skeleton argument 171 – 236
- Section 8: Correspondence Bundle Individual B – 237 to 248

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

Witnesses

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

- Witness A

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 29 October 2018, Mr Brookes commenced employment with Keys Educational Services Limited, at Build a Future ('the School').

On 24 November 2021, Mr Brookes allegedly used a hammer to hit and/or smash a pool table.

It was alleged that Mr Brookes had made comments that were of an inappropriate and/or sexual nature, and that he had sworn in front of pupils.

On 26 November 2021, an investigatory meeting was held with Mr Brookes.

On 11 February 2022, a disciplinary hearing was held.

On 17 February 2022, Mr Brookes ceased employment at the School and appealed the decision of the disciplinary hearing.

On 28 March 2022, an appeal hearing was held.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you not proved, for these reasons:

1. On or around 24 November 2021, you used a hammer to hit and/or smash a pool table, witnessed by staff and/or pupils.

The panel considered the photograph of the damaged pool table provided within the bundle. The panel noted that the top of the pool table was damaged, which was consistent with being hit and/or smashed with a hammer.

The panel considered the oral evidence and written statement of Witness A, who stated that she did not see Mr Brookes smash the pool table, but heard a loud noise when she was with Pupil I, so she went to the door of her classroom to check everything was okay. Witness A submitted that Mr Brookes had walked through the sports hall towards her classroom, carrying a hammer and laughing. She stated that she asked him what had happened to which he stated, *“sorry, it was only me, that will stop them fucking playing pool, won’t it”*. Witness A stated that Pupil I would not have been able to see Mr Brookes as Pupil I was in the classroom at that time. Witness A stated that as she took Pupil I to the kitchen, she saw that the pool table was smashed with holes in it.

The panel observed that Witness A had been consistent in her recollection of the most important aspects of the specific incidents and in maintaining that Pupil I had not witnessed the incident.

When determining the credibility of the evidence given, the panel concluded that Witness A was a reliable and credible witness and preferred her evidence to that of Individual B.

The panel considered the written statement of Individual B, who stated that as far as she can remember, a pupil threw a pool ball which hit Individual C, a [REDACTED], on the head. She stated that the pupil had intended to hit another pupil. Individual B stated that she knew this from the de-brief. Individual B stated that following this incident, Mr Brookes got a hammer from construction and smashed the pool table to pieces, with a sarcastic grin on his face. She stated that she believed he had completely lost control.

Individual B submitted that she heard a lot of loud banging, and she arrived in the doorway around 30 seconds before Mr Brookes had finished *“smashing the pool table to pieces”*. She stated that once Mr Brookes had accomplished this, he walked away from the table, caught her and another staff member’s eye, grinned as if nothing had happened and walked to the front of the School.

The panel also noted that Individual B’s statement was made two years after the incident and that they had no evidence that she was interviewed as part of the school investigation and failed to attend as a witness. Therefore, there was no contemporaneous documentary evidence to support Individual B’s statement that she witnessed Mr Brookes hitting the pool table.

The panel noted inconsistencies in Individual B’s evidence and other evidence it was provided with, including that Individual B stated that, at the time of the incident, one of the

pupils had borne witness. However, the panel noted that this contradicted the evidence of Mr Brookes and Witness A, who they found to be a credible witness.

The panel noted that the evidence given by Individual B was hearsay evidence and, therefore, due to this and the inconsistencies, did not place any weight on her evidence. In light of this, and in the absence of other evidence, the panel did not find on the balance of probabilities that Individual B had witnessed Mr Brooke hitting the pool table with the hammer.

The panel considered the fact-finding meeting notes with Mr Brookes dated 26 November 2021. Mr Brookes stated that he was having a pool game with Pupil P and that a number of pupils then came in. He stated that Pupil G became verbally heightened, and Pupil A said something to her. Mr Brookes stated that Pupil G grabbed a yellow ball and then threw it towards Pupil A.

The notes explained that Mr Brookes started putting away the pool balls and that Pupil G managed to grab the last ball and throw it. He stated that Pupil P ducked, and the ball hit another staff member on the left side of her forehead. The notes set out that Mr Brookes stated that the staff member was bleeding and could not see, so he was distressed; he stated that he asked her if she was okay, and that she was then taken to A&E.

Mr Brookes stated that when he came back inside, he returned to the area and then went to the workshop to grab a hammer. He stated that he struck the pool table several times to prevent further play. Mr Brookes stated that he knew it was loud but did not realise that it alerted staff and pupils to the archway. He stated that he calmly apologised and told them, *"no more pool again, I am not waiting for someone to be killed"*. Mr Brookes stated that he calmly walked away and returned the hammer to the workshop.

The panel considered Mr Brookes' statement *'to the board'*, where he stated that he did attempt to decommission a pool table with a hammer to prevent further incidents. He stated that no pupils or staff were in the room when he did this action, but he acknowledged that the noise created attracted staff and pupils to the area.

The presenting officer had drawn the panel's attention to the notice of hearing, which purported to put Mr Brookes on notice and warned him about a potential adverse inference being drawn for his non-attendance. Having received legal advice, the panel considered and ultimately resolved not to draw an adverse inference from Mr Brooke's non-attendance at the hearing. The panel noted that Mr Brooke had engaged in the TRA process, as he had submitted replies to the allegations and his responses to the witness's statements.

The panel found that on or around 24 November 2021, Mr Brookes had used a hammer to hit and smash a pool table.

The panel then considered the wording of the allegation, which included “*witnessed by staff and/or pupils*”. The panel considered the presenting officer’s submissions that in addition to amending the allegations, the panel could find the allegation even if they did not find the act was witnessed. The panel considered the allegation based on a strict interpretation of its whole wording and found that in order to find this allegation proven, they needed to find that Mr Brookes’ actions had been witnessed by staff and/or pupils.

The panel then considered the ordinary English meaning of witnessed, including the dictionary definition of a “*person who sees an event*”, and concluded that this did not include hearing the incident from a different room. The panel noted that this was in line with Mr Brooke’s statement ‘to the board’ that “*there were no learners or staff in the room when [he] did this action, the ensuing noise created, attracted both learners and staff to the area.*”

The panel had not found that the incident had been witnessed by staff or pupils and instead had only been heard by them. Therefore, the panel found that allegation 1 was not proven.

3. In or around November 2021, you made comments of an inappropriate and/or sexual nature and/or swore at and/or in front of pupils.

The panel considered Witness A’s written statement, which stated that Mr Brookes would call pupils names and swear at them.

In order to test Witness A’s credibility, the panel questioned her on when she had witnessed Mr Brookes making comments of an inappropriate and sexual nature and swearing at or in front of pupils.

Witness A in her oral evidence explained that Mr Brookes would swear “*many times*”, but the panel noted she did not provide any specific instances.

The panel asked Witness A to confirm when Mr Brookes had sworn at or in front of pupils, but she was unable to do so. The panel tested this by asking roughly when this was or to provide an approximate timeframe, however, Witness A was unable to do so.

The panel considered the written statement of Pupil J, who stated that Mr Brookes swore all of the time, no matter who was around and where he was. Pupil J stated that they heard him use the word “*bastard*” a lot.

Pupil J explained that teachers swearing was not uncommon, and that all teachers, other than two, swore.

Pupil J stated that Mr Brookes once called another pupil a “*little bastard*” behind their back, as the pupil had been misbehaving in his lesson. Pupil J stated that Mr Brookes made hand gestures to explain what was a “*girl wanker*” and what was a “*boy wanker*”.

Pupil J stated that Mr Brookes mentioned his sex life a couple of times, and would tell them when he had had sex with [REDACTED] the night before, and used to go into details about what they did.

The panel noted that Pupil J's statement did not provide dates for any of the allegations.

The panel noted the inconsistencies between Pupil J's and Witness A's evidence. Pupil J in his written evidence stated that all the teachers, except for two who he named, swore. This contradicted Witness A's oral evidence, as she stated that it was just Mr Brookes who swore, as far as she was aware. The panel noted that the evidence given by Pupil J was hearsay evidence and, therefore, placed less weight on his evidence.

The panel considered the written statement of Individual B, who stated that Mr Brookes often used to, unwantedly, show her sexual photographs of [REDACTED] on his phone during school hours. She stated that in the picture, [REDACTED] was on the bed wearing a red and black laced corset with stockings. Individual B stated that male pupils had previously reported to her that Mr Brookes would show them pornographic images on his phone.

Individual B stated that Mr Brookes had previously made derogatory comments about her and her sisters. She stated that in front of other staff members during a de-brief meeting, he made a comment about her and her sisters 'squirting'.

Individual B stated that Mr Brookes also used to make derogatory comments about other female staff members, pupils' parents and other female external agencies who came into the School. She stated that Mr Brookes used to make comments along the lines of females "getting it" and "the things I would do to them".

Individual B stated that pupils reported to her that they did not like the way Mr Brookes spoke to them. She stated that a female pupil reported to her that Mr Brookes made a comment about her bottom, along the lines of "look at that fat arse", and another female pupil stated that Mr Brookes made a comment about his genitals being "bitten off" after the pupil said that she was concerned about a bruise.

Individual B stated that Mr Brookes often swore in front of both staff and pupils, and would say words such as "fucking", "cunt", "bastard", "wanker" and "cock". She stated that he used to show aggression to the pupils through the tone of his voice.

The panel noted that the evidence given by Individual B was hearsay evidence and, therefore, due to this and the inconsistencies referred to above, did not place any weight on her evidence.

The panel considered Mr Brookes' statement 'to the board', where he stated that the sexual nature referenced was part of the original investigation after a response to an anonymous allegation made to OFSTED was included in the investigation. He stated that

he strongly denied these allegations and is offended by the allegation. Mr Brookes stated that he does not recall the instances of him swearing.

The panel considered the wording of the allegation, which was that *“In or around November 2021, Mr Brookes made comments of an inappropriate and/or sexual nature and/or swore at and/or in front of pupils.”*

The panel noted an email chain in November 2021 between Individual B and Individual D, where Individual B was reporting Mr Brookes. The panel noted that some of the comments were her relaying comments from pupils and, therefore, were double hearsay. The panel noted that there was no other evidence that this had been raised previously, and they found the timing of raising this shortly after the incident questionable. The panel noted that in the email on 20 November 2023, Individual B confirmed that the photo *“wasn’t revealing”*, as she noted an error in her typing.

The panel considered that in oral evidence, Witness A’s explained that at the time of the incident, the teachers would make verbal reports of low-level concerns about colleagues, as opposed to reporting these in writing.

The panel noted that the remaining evidence regarding Mr Brookes making *“comments of an inappropriate and/or sexual nature”* did not contain a date of when he allegedly made the comments. Therefore, the panel was unable to conclude, based on the wording of the allegation, that on the balance of probabilities, in or around November 2021, Mr Brookes had made comments of an inappropriate or sexual nature.

The panel noted that the evidence it was presented with did not confirm when the comments or swearing took place. The panel found there was an absence of detail of any particular incident they were unable to find on the balance of probabilities that this happened in or around November 2021.

The panel found allegation 3 not proven.

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

2. Your actions at paragraph 1 placed staff and/or pupils with social, emotional mental health needs at risk of harm and/or distress.

The panel considered the photograph of the damaged pool table provided within the bundle. The panel noted that the top of the pool table was damaged, which was consistent with being hit and/or smashed with a hammer.

The panel considered that it had for the reasons outlined above at allegation 1, found that Mr Brookes had hit and smashed the pool table.

The panel considered the written statement of Witness A, who stated that Pupil I was distressed when the noise was happening and said that he did not want to stay in the classroom anymore. She stated that Pupil I becomes anxious and panics with tasks that present a challenge and that staff members are aware of this and need to understand how he may feel.

The panel considered the oral evidence of Witness A.

In order to test Witness A's credibility, the panel questioned her on the details of the incident in relation to Pupil I. The panel felt that Witness A provided a plausible explanation of the routine she went through to regulate and support Pupil I following the incident. The panel noted that Witness A submitted that she stayed with Pupil I following the incident, and they felt she did know Pupil I and had only stayed with him due to the impact the incident had on Pupil I.

The panel considered the written statement of Individual B, who stated that the pupil who witnessed Mr Brookes smashing up the pool table had [REDACTED] and is quite sensitive to any kind of noise. She stated that this pupil [REDACTED], and during the incident had to cover his ears to try and block out the noises of the pool table being smashed.

In her written statement, Individual B submitted that the incident impacted the pupil as it impacted his sensitivity to noise and frightened him. She stated that she was not with the pupil but Witness A told her.

The panel considered Mr Brookes' statement '*to the board*', where he stated that no pupils or staff were in the room when he attempted to decommission the pool table, but acknowledged that the noise attracted pupils and staff to the room at the end of the incident. He stated that at no point was any member of staff or pupil in danger.

Mr Brookes stated that Pupil I did experience minor distress as a result of the noise created, and that he has explained directly to Pupil I that this was not his intention.

The panel considered the wording of the allegation, namely that the staff or pupils had been placed '*at risk*' of harm and/or distress. The panel concluded, on strict interpretation and following submission from the presenting officer, that in order to find the allegation proved, they did not need to find a pupil had been placed at harm or that the incident had caused a pupil distress, rather that there was a risk of this happening.

The panel found that the actions of Mr Brookes, having hit the pool table with a hammer more than 10 times during this incident, had placed staff and pupils with social and emotional mental health needs at risk of harm and distress. This was in particular due to the actual impact on Pupil I.

The panel considered the interpretation of the allegation, namely “*Your actions at paragraph 1*”. The panel considered the meaning of this and determined that this related to Mr Brookes’ action of using a hammer to hit and smash a pool table. The witnessing of the action was not in itself an action.

As the panel found that the action was Mr Brookes using a hammer to hit and smash a pool table and as they found this action had placed staff and other pupils with social, emotional mental health needs at risk of harm and distress, the panel found allegation 2 proven.

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

Having found that allegation 2 had been proven, the panel went on to consider whether the facts of the allegation 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 Mr Brookes, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Brookes was in breach of the following standards:

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

The panel considered that, by reference to Part 1, Mr Brookes was in breach of the following standard: A Teacher must:

- demonstrate consistently the positive attitudes, values and behaviour which are expected of pupils.

The panel also considered that Mr Brookes was in breach of Part 1 of KCSIE:

- Safeguarding and promoting the welfare of children is defined for the purposes of this guidance as:
 - preventing the impairment of children’s mental and physical health or development.

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

This was a case involving the following offences that the Advice states are likely to be considered a relevant offence. The panel considered the meaning of violence and found that the offence of violence was relevant. The panel also considered the number of times Mr Brookes hit the table as a factor in determining that his behaviour was violent. 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.

The panel received legal advice as to the possibility of findings being cumulated in accordance with the guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, as the panel concluded that only allegation 2 was proved, the panel did not need to determine whether it would be appropriate to cumulate this allegation.

The panel found the act of hitting the pool table a number of times, putting pupils at risk, serious.

Further, the panel found the delay between the pupil throwing the pool ball and Mr Brookes hitting the pool table a factor in Mr Brookes not demonstrating conduct commensurate with what is expected of a teacher. The panel noted that during the intervening period between the pool ball being thrown and his actions at allegation 2, he had; attended to Individual C, secured her in the office, returned to the area and secured the pool balls and cue, cleaned up the blood on the kitchen floor, pool area and through to the sports hall, got the kitchen door key to secure the area, took the pool balls and the pool cue, went outside and moved a car, before going to the workshop to get the hammer where he met with Pupil H and when Pupil H offered him the wood hammer he said "*I need the metal hammer*" and thanked Pupil H.

The panel was satisfied that the conduct of Mr Brookes amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel noted that they had found a number of breaches of the Teacher Standards and a breach of KCSIE. The panel found that Mr Brookes had placed the children at risk of harm and, therefore, his conduct fell significantly short of the standards expected of the profession.

Accordingly, the panel was satisfied that Mr Brookes 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 finding of misconduct is very serious, including violence. The panel considered that the public would expect a teacher not to repeatedly hit a pool table where pupils and/or other staff could hear and/or witness the actions and that placing pupils at risk by smashing the pool table would likely have a negative impact on the public perception of the profession. The panel, therefore, was of the view that the conduct displayed would have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel, therefore, found that Mr Brookes' actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegation 2 proved, the panel further found that Mr Brookes' conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

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

In the light of the panel's findings against Mr Brookes, which involved using a hammer to smash a pool table, placing staff and pupils with social, emotional health needs at a risk of harm and distress, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

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

The panel decided that there was a public interest consideration in retaining the teacher in the profession since no doubt had been cast upon his 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 Mr Brookes. 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 Mr Brookes. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);

The panel noted that this was misconduct which had put pupils' wellbeing at risk, but that this had been an isolated incident, and there was no continuing risk to pupils.

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 Mr Brookes' actions were not deliberate.

There was evidence to suggest that Mr Brookes was acting under extreme duress. The panel considered that the incident happened after Mr Brookes had witnessed a pupil throw a pool ball, which hit a colleague, resulting in her being required to go to A&E.

The panel considered Mr Brookes' statement '*to the board*', where he stated that at the time of the incident, his "*judgement was clouded by the incident*".

The panel also considered that Mr Brookes stated during the school investigation that *“It was a really volatile situation, there was a lot of shock and trauma around this incident”* and that his *“[REDACTED].”*

The panel considered that Mr Brookes stated during the school investigation that *“the injury to the work colleague was horrific, and she could well have been killed”* and that she had received a serious head injury. Further, the panel noted that Mr Brookes had stated that *“someone could have been killed. [He] was also worried at another staff member, who was pregnant. [He] did not react in the best way it was not right, [he] know[s]”*.

The panel also considered Mr Brookes’ motivation in his actions: he was looking to decommission the pool table following a serious incident in which a colleague of his had been injured. The panel noted that although the pool table had already been decommissioned as the cue and balls had been removed, in the circumstances and after what Mr Brookes had witnessed, his actions may have been due to the shock he experienced with witnessing this incident. The panel noted that this was an isolated incident. The panel noted that whilst his personal situation and the concerns he had about his colleague’s injuries are not an excuse, these would have impaired his ability to make rational decisions.

The panel noted that there was insight and some remorse on the part of Mr Brookes. The panel found that Mr Brookes had demonstrated insight into his actions, including by acknowledging that he did not react appropriately and that his actions were *“not right.”* The panel also noted he apologised to Pupil I.

The panel also considered Mr Brookes’ statement that this had not been the first incident involving the pool table and that when he hit and smashed the pool table, no one else was in the room, and he thought he could have done it without affecting anyone else. Mr Brookes accepted that once he had finished hitting the pool table with the hammer, it *“started to flood into [him] that... [he] went too far.”*

The panel was of the view that Mr Brookes would be unlikely to behave in a similar way in the future, he had learned from his mistake and he acted outside his normal character.

The panel noted that Mr Brookes demonstrated high standards in both personal and professional conduct and has contributed to the education sector. The panel noted his previous experience within the education sector, including his work at one college to which he had returned, and he had been there for a total of seven years.

The panel also considered Kingsley Napley's attendance note dated 24 November 2023, in which Pupil R’s father said that Mr Brookes was an *“absolutely brilliant teacher”* and one of the best his son had.

The panel also considered the written statement of Pupil J, where Pupil J stated that *“Lee Brookes really helped me to start to understand my outbursts, and my anger. I always felt like I could approach Lee Brookes with my problems, and he would listen to me. I never felt judged by Lee Brookes”*.

Although the panel made a finding concerning allegation 2 and that this amounted to unacceptable professional conduct and conduct that brought the profession into disrepute, the panel considered that the conduct found proven was at the lower end of the scale in terms of severity, particularly given this was an isolated incident not witnessed by anybody.

The panel considered the unsigned character statement of Individual C, submitted on behalf of Mr Brookes. Individual C was an [REDACTED] of Mr Brookes at the School. The panel noted the following comments in particular:

- *“safety of the learners and staff was always at the helm and his most paramount objective”*
- *“Lee was still heavily relied upon to deal with the more challenging incidents of misconduct around school, which he continued to do, as well as teach, to provide a safe environment on site for everyone”*
- *“Mainly due to his brilliant rapport with the learners and their parents/ guardians alike, learners naturally turn to Lee for invaluable emotional support, and he is often named as the preferred key worker for learners”*

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 concluded that it would not serve a useful purpose to prohibit the teacher, particularly as he has shown both insight and remorse.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

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 sanction.

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 one of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven (including allegations 1 and 3). I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have 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 Mr Brookes, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

The findings of misconduct are serious as they include a finding of placing staff and/or pupils with social, emotional mental health needs at risk of harm and/or distress.

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 Brookes, 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 that “Mr Brookes had placed the children at risk of harm and, therefore, his conduct fell significantly short of the standards expected of the profession.” 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:

“The panel noted that there was insight and some remorse on the part of Mr Brookes. The panel found that Mr Brookes had demonstrated insight into his actions, including by acknowledging that he did not react appropriately and that his actions were “*not right*.” The panel also noted he apologised to Pupil I.”

“The panel was of the view that Mr Brookes would be unlikely to behave in a similar way in the future, he had learned from his mistake and he acted outside his normal character.”

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 has observed that “the public would expect a teacher not to repeatedly hit a pool table where pupils and/or other staff could hear and/or witness the actions and that placing pupils at risk by smashing the pool table would likely have a negative impact on the public perception of the profession.” I am particularly mindful of the finding of placing children at risk of harm 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 Brookes himself. The panel has commented:

“The panel noted that Mr Brookes demonstrated high standards in both personal and professional conduct and has contributed to the education sector. The panel noted his previous experience within the education sector, including his work at one college to which he had returned, and he had been there for a total of seven years.”

The panel has also noted positive comments on Mr Brookes’ teaching abilities from a pupil, parent of a pupil and a former colleague.

A prohibition order would prevent Mr Brookes 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 a prohibition order would serve no useful purpose, particularly as Mr Brookes has shown insight and remorse.

I have also placed considerable weight on the finding of the panel that:

“There was evidence to suggest that Mr Brookes was acting under extreme duress. The panel considered that the incident happened after Mr Brookes had witnessed a pupil throw a pool ball, which hit a colleague, resulting in her being required to go to A&E.”

The panel has also noted that the misconduct “found proven was at the lower end of the scale in terms of severity, particularly given this was an isolated incident not witnessed by anybody.”

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to be 'M. Jones', written in a cursive style.

Decision maker: David Oatley

Date: 26 July 2024

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