



Teaching  
Regulation  
Agency

# **Mr Robert Brathwaite (Braithwaite): Professional conduct panel outcome**

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

**September 2024**

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

<b>Teacher:</b>	Mr Robert Brathwaite
<b>Teacher ref number:</b>	1655368
<b>Teacher date of birth:</b>	15 October 1986
<b>TRA reference:</b>	16586
<b>Date of determination:</b>	19 September 2024
<b>Former employer:</b>	Sydney Russell School

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 17 to 19 September 2024 by way of a virtual hearing, to consider the case of Mr Robert Brathwaite.

The panel members were Mr Duncan Tilley (lay panellist – in the chair), Miss Nikki Heron (teacher panellist) and Dr Rachel McIlwaine (teacher panellist).

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

The presenting officer for the TRA was Mr Ed Carey of Capsticks.

Mr Brathwaite 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 12 June 2024 and as amended by the preliminary application referred to below.

It was alleged that Mr Brathwaite was guilty of having been convicted of a relevant offence, in that:

1. On 26 July 2005 at Snaresbrook Crown Court, he was convicted of:
  - a) Driving otherwise than in accordance with a licence;
  - b) Using a vehicle without insurance;
  - c) Proceeds of crime – possession of criminal property
2. On 19 April 2007 at Snaresbrook Crown Court, he was convicted of battery.
3. On 6 May 2009 at Westminster Magistrates' Court, he was convicted of fraud in that he dishonestly made a false representation intending to make a gain for himself, contrary to sections 1 and 2 of the Fraud Act 2006.
4. On 25 July 2019 at Snaresbrook Crown Court, he was convicted of sexual assault of female person 13 years or over by penetration.

In addition, it was also alleged that Mr Brathwaite was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

5. In or around June 2016, he provided inaccurate and/or misleading information about one or more of his previous convictions when applying for a teaching position at Sydney Russell School ("the School").
6. In or around November 2016, whilst employed as a teacher at the School, he engaged in sexual activity with Colleague A on school premises on one or more occasions.
7. His conduct at paragraph 5 above was dishonest, in that he knew he was providing information which was inaccurate and/or misleading.

## Preliminary applications

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

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

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*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Brathwaite in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the '2018 Procedures').

The panel had sight of emails in the bundle in which Mr Brathwaite stated he "*will not be giving any evidence in the hearing*" and that "*the decision can be made in my absence*", and a telephone call attendance note detailing a call between Mr Brathwaite and the TRA in which Mr Brathwaite confirmed he would not be attending the hearing.

The panel concluded that Mr Brathwaite's absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel did not see any evidence that Mr Brathwaite had intended to be absent or represented at the hearing. In fact, Mr Brathwaite indicated in an email to the TRA that he did not have any trade union affiliation and no reference was made to having other representation.

The panel noted that Mr Brathwaite 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 Brathwaite was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witness of any delay.

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 Mr Brathwaite was neither present nor represented.

### Application to amend allegations

The presenting officer made an application to amend allegations 5 and 6. The proposed amendments were:

- With respect to allegation 5, to replace the words “School B” with “Sydney Russell School (“the School”); and,
- With respect to allegation 6, to replace the words “School B” with “the School”.

The panel noted that Mr Brathwaite 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 4.56 of the 2018 Procedures.

The panel considered that the proposed amendments would not change the nature and scope of the allegations in that the amendments would merely bring the drafting in line with TRA house style and remove the possibility of any confusion around the existence of an additional school with which Mr Brathwaite was connected as part of these allegations. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations.

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 considered if granting the application for the proposed amendments may cause unfairness and/or prejudice to Mr Brathwaite on the basis that he had not been informed of the amendments nor had he been given the opportunity to respond to the amended allegations.

However, the panel concluded that neither the nature nor scope of the allegations would be impacted by a decision to grant the application to amend and accordingly no unfairness or prejudice would be caused to Mr Brathwaite in his absence.

Accordingly, the panel granted this application and considered the amended allegations, which are set out above.

## 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 4 to 6
- Section 2: Notice of proceedings and response – pages 7 to 63
- Section 3: TRA witness statements – pages 64 to 68
- Section 4: TRA documents – pages 69 to 342
- Section 5: Teacher documents – pages 343 to 367
- Section 6: Teacher correspondence – pages 368 to 377

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

### Witnesses

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

- Witness A, [REDACTED]

## Decision and reasons

The panel announced its decision and reasons as follows:

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

On 26 July 2005, Mr Brathwaite was convicted at Snaresbrook Crown Court of driving otherwise than in accordance with a license, using a vehicle whilst uninsured and possession of criminal property.

On 19 April 2007, Mr Brathwaite was convicted at Snaresbrook Crown Court of battery.

On 21 May 2009, Mr Brathwaite was convicted at Westminster Magistrates' Court of fraud in that he dishonestly made a false representation intending to make a personal gain.

On 7 June 2016, Mr Brathwaite submitted an application form for a teaching post at Sydney Russell School ('the School'). On 1 July 2016 Mr Brathwaite commenced employment at the School.

On 26 July 2017, the TRA received a referral concerning Mr Brathwaite.

On 6 September 2019, Mr Brathwaite was convicted at Snaresbrook Crown Court of sexual assault of a female person 13 years or over by penetration.

On 7 February 2023, a letter was sent to Mr Brathwaite in relation to the amended allegation under investigation by the TRA.

The panel noted from the outset that the teacher's surname was spelt differently throughout the documentation it had seen; there were two variations: 'Brathwaite' and 'Braithwaite'. The panel invited the presenting officer to make submissions regarding the due diligence that had been undertaken to confirm that all documents in the bundle related to the same individual.

The presenting officer confirmed that every effort had been made to confirm this was the case, including cross-checking relevant details between documents – such as dates of birth – and the panel concluded, having considered the submissions, that Mr Brathwaite, who was a registered teacher and the subject of these proceedings, sometimes allowed his name to be recorded with an additional 'l' (Braithwaite), in the manner of an alias.

## **Findings of fact**

The findings of fact are as follows:

### **1. On 26 July 2005 at Snaresbrook Crown Court, you were convicted of:**

- a) Driving otherwise than in accordance with a licence;**
- b) Using a vehicle without insurance;**
- c) Proceeds of crime – possession of criminal property**

The panel noted paragraph 15 of the Teacher misconduct: the prohibition of teachers ('the Advice'), which states that where there has been a conviction at any time, of a criminal offence, the panel will accept the certificate of conviction as conclusive proof of both the conviction and the facts necessarily implied by the conviction, unless exceptional circumstances apply. The panel did not find that any exceptional circumstances applied in this case.

The panel was provided with a copy of the certificate of conviction from Snaresbrook Crown Court, dated 26 July 2005, which set out that Mr Brathwaite had pleaded guilty to driving otherwise than in accordance with a licence, using a vehicle without insurance, and proceeds of crime – possession of criminal property.

On examination of the documents before it, the panel was satisfied that the facts of allegations 1(a), 1(b) and 1(c) were proven.



## **2. On 19 April 2007 at Snaresbrook Crown Court, you were convicted of battery.**

The panel was provided with a copy of the certificate of conviction from Snaresbrook Crown Court, dated 19 April 2007, which set out that Mr Brathwaite had been tried for and convicted of battery.

The panel noted that in respect of this conviction, Mr Brathwaite was ordered to pay a fine of £500 or in default to serve 7 days imprisonment, and pay £50 to PC [REDACTED], both to be paid within 3 months, on or before the 19 July 2007.

On examination of the documents before it, the panel was satisfied that the facts of allegation 2 were proven.

## **3. On 6 May 2009 at Westminster Magistrates' Court, you were convicted of fraud in that you dishonestly made a false representation intending to make a gain for yourself, contrary to sections 1 and 2 of the Fraud Act 2006.**

The panel was provided with a copy of a memorandum of conviction from City of Westminster Magistrates Court, which detailed that on 6 May 2009 Mr Brathwaite had pleaded guilty to fraud in that he dishonestly made a false representation, namely used a cloned credit card, intending to make a gain for himself, to buy 2 laptops to the value of £1,622.68, contrary to sections 1 and 2 of the Fraud Act 2006.

The panel heard submissions from the presenting officer, corroborated by the legal adviser, that a memorandum of conviction is a document equivalent to a certificate of conviction. The only difference is that a Magistrates Court produces memorandums of conviction, while a Crown Court produces certificates of conviction.

The panel were satisfied that the memorandum of conviction they had seen in the bundle was sufficient for them to apply the principle set out at paragraph 15 of the Advice and accept the memorandum as conclusive proof of both the conviction and the facts necessarily implied by the conviction.

The panel noted that the memorandum of conviction stated that, on 21 May 2009 Mr Brathwaite was given a 10-week prison sentence.

The panel noted that Mr Brathwaite had lodged an appeal relating to this matter, although it did not hear any submissions from the presenting officer on this point, nor was it taken to any evidence to determine what the appeal related to.

However, on the matter of determining if the conviction had taken place, the panel had no doubt that it had.

On examination of the documents before it, the panel was satisfied that the facts of allegation 3 were proven.

**4. On 25 July 2019 at Snaresbrook Crown Court, you were convicted of sexual assault of female person 13 years or over by penetration.**

The panel was provided with a copy of the certificate of conviction from Snaresbrook Crown Court, dated 25 July 2019, which detailed that Mr Brathwaite had been tried for and convicted of one count of sexual assault on a female person 13 years or over by penetration.

The panel noted that Mr Brathwaite received a sentence comprising a number of conditions, including 18 months' imprisonment, suspended for 24 months and to be placed on the Sex Offenders' Register for 10 years.

On examination of the documents before it, the panel was satisfied that the facts of allegation 4 were proven.

**5. In or around June 2016, you provided inaccurate and/or misleading information about one or more of your previous convictions when applying for a teaching position at Sydney Russell School ("the School").**

The panel considered Mr Brathwaite's application form to the School, which was provided within the bundle. The relevant section of the application form stated "*you must provide information about ALL [sic] convictions, as the post is automatically exempt from the Rehabilitation of Offenders Act 1974 and rules relating to 'spent' convictions do not apply.*"

The panel observed that Mr Brathwaite had ticked the box to state that he had been convicted of one or more criminal offences.

The application form prompted applicants to provide details on any convictions in a clearly indicated space. In her oral evidence, Witness A, [REDACTED] witness confirmed her understanding that there was no limit to how many characters the space would accept. She was clear that her understanding was that applicants would be expected to provide full and frank disclosure regarding any convictions.

When asked to give details in the box, Mr Brathwaite stated the following:

*'Driving without a licence and insurance – 2006  
Battery – 2006  
Selling items, making a gain without a licence – 2009'*

The panel was also shown a supplementary document outlining the details of Mr Brathwaite's convictions.

In her oral evidence, Witness A was asked if she could recall the provenance and purpose of the supplementary document. She explained that, although her memory was somewhat hazy, she recalled having a conversation with Mr Brathwaite after he had

ticked the box and provided the provisional information regarding his conviction on the application form.

As part of that conversation, she requested that Mr Brathwaite provide a further, supplementary document setting out further details of his convictions. Witness A believed that Mr Brathwaite had provided that supplementary document to the School after his interview.

The panel concluded that Mr Brathwaite had prepared the supplementary document himself, and provided it to the School as part of the application process. The panel determined that Mr Brathwaite had not provided the supplementary document at the same time as the application form, but at a later point following a verbal request from Witness A.

The supplementary document had three subheadings, as follows:

- Conviction 1 – 29<sup>th</sup> March 2006
- Conviction 2 – 19<sup>th</sup> April 2007
- Conviction 3 – 21<sup>st</sup> May 2009

With respect to ‘Conviction 1’, Mr Brathwaite had listed “*possess criminal property, driving without licence, driving without insurance*” as the offences. He further described the nature of the circumstances around those offences as having taken his friend’s parents’ car out for a drive when they were on holiday while he was 18 years old. A neighbour reported the car missing and called the police to report it as stolen. As Mr Brathwaite was driving, he was convicted on all three counts.

The panel heard submissions from the presenting officer that Mr Brathwaite had entirely omitted the conviction for possession of criminal property on his initial application form. The panel confirmed this by checking the content of the application form itself. The panel therefore concluded that the information provided on the application form was inaccurate as it failed to mention that Mr Brathwaite was convicted of possession of criminal property (relating to allegation 1(c)).

With respect to ‘Conviction 2’, Mr Brathwaite had listed “*battery*”. He further described the nature of the circumstances surrounding that offence as having “*had a fight on 19<sup>th</sup> April with someone who had crashed into my car at the petrol station. Police was [sic] called and I was arrested*”.

The presenting officer submitted that, upon initial reading of this explanation, it appeared that the victim of the battery had been the individual who had crashed into Mr Brathwaite’s car and with whom Mr Brathwaite indicated he had “*had a fight*”. In its

deliberations, the panel concluded that the drafting of the explanation did lead the reader to this conclusion.

The presenting officer showed the panel the details on the certificate of conviction in relation to this offence, specifically relating to the sentence Mr Brathwaite received after having been found guilty of battery.

The presenting officer referred the panel to one of the sentencing aspects which required that Mr Brathwaite “*pay compensation of £50 to PC [REDACTED] [...] within 3 months on or before 19<sup>th</sup> July [...]*” The presenting officer submitted that, as this police officer was the only person to whom Mr Brathwaite had been ordered to pay compensation, the panel could only conclude that the police officer had in fact been the victim of the battery, and not the individual who had allegedly crashed into Mr Brathwaite’s car.

The panel concluded that, while Mr Brathwaite’s explanation of the incident in the supplementary document as set out above was not inaccurate, it was misleading as while it stated that the police were called, the description did not in any way lead the reader to conclude that a police officer had been the victim of the crime, which appeared to be the case on the balance of probabilities.

The panel therefore concluded that the information on the supplementary document was misleading in this regard.

With respect to ‘Conviction 3’, Mr Brathwaite had listed “*make false representation to make gain for self [sic]*”. He further described the nature of the circumstances surrounding that offence as having been part of a sales team going door-to-door, making sales for cash. He stated he “*was convicted due to not having a licence/ ID badge*” and for using a “*sales name and a sales pitch which was untrue and misleading.*”

The panel considered the memorandum of conviction from City of Westminster Magistrates Court, dated 6 May 2009, which detailed that Mr Brathwaite had pleaded guilty to fraud in that he dishonestly made a false representation, namely that at Marks and Spencer on Oxford Street he used a cloned credit card, intending to make a gain for himself, to buy two laptops to the value of £1,622.68, contrary to sections 1 and 2 of the Fraud Act 2006.

The presenting officer submitted that, in failing to use the word “fraud” at any point in the documentation, Mr Brathwaite made a deliberate choice to mislead the reader by giving the impression that the conviction was of a lesser nature and/or seriousness than it actually was.

On this point, the panel considered that in failing to include that the offence was fraud, the information provided on the supplementary document was inaccurate and misleading.

Also, with respect to 'Conviction 3', the panel noted Mr Brathwaite described in the supplementary document he provided having been convicted in relation to door-to-door sales. Specifically, Mr Brathwaite claimed this conviction was due to him being unlicensed to sell items, with no ID badge, and for *"using a "sales name" and a sales pitch which was untrue and misleading"*.

The panel then considered the details of the conviction as provided on the memorandum of conviction. As set out above, the memorandum explained that Mr Brathwaite had pleaded guilty to having used a cloned credit card, intending to make a gain for himself.

The panel confirmed by way of comparing and matching the dates on the memorandum of conviction and as referred to by Mr Brathwaite on the supplementary document, that both documents purported to describe the offence for which Mr Brathwaite was sentenced on 21 May 2009.

The panel were in no doubt that the information provided on the memorandum of conviction provided a true and accurate description of the nature of the offence.

Therefore, the panel concluded that, due to Mr Brathwaite having provided an entirely different and false explanation on the supplementary document, the information provided was therefore both inaccurate and misleading.

Accordingly, the panel found the facts of allegation 5 proven.

**6. In or around November 2016, whilst employed as a teacher at the School, you engaged in sexual activity with Colleague A on school premises on one or more occasions.**

The panel noted that Mr Brathwaite had been arrested and interviewed by police in connection with an allegation from Colleague A implicating Mr Brathwaite.

The panel had sight of the police interview and court transcripts in which Mr Brathwaite fully accepted on multiple occasions, including under police caution and under oath in court, that he and Colleague A had had sex in his classroom at the School. The panel accepted this as conclusive evidence that Mr Brathwaite's position was that he and Colleague A had had sex on school premises on at least one occasion.

The panel considered the oral and written evidence of the witness.

In her witness statement, Witness A stated that she had no doubts that Mr Brathwaite and Colleague A had sexual intercourse in the classroom as both individuals had independently told her that it had happened.

The witness was asked during her oral evidence if she still understood this to be the case. She confirmed that she remained certain that Mr Brathwaite and Colleague A had independently told her that they had had sex in the classroom.

The panel concluded that Witness A was a credible and reliable witness. She had been candid in indicating in her answers when she could not recall things clearly, or when she did not remember something and therefore could not provide a response.

The panel had no reason to believe the evidence had been falsified or edited, nor did it have any indication from Mr Brathwaite that he denied having had sex with Colleague A in the classroom. The panel concluded that Witness A's written and oral evidence, and the documentary evidence in the bundle, including written transcripts of Mr Brathwaite's own words, proved that Mr Brathwaite had engaged in sexual activity with Colleague A on school premises on at least one occasion.

The panel found allegation 6 proven.

**7. Your conduct at paragraph 5 above was dishonest, in that you knew you were providing information which was inaccurate and/or misleading.**

The panel considered whether Mr Brathwaite acted dishonestly in relation to his conduct at paragraph 5. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel first sought to ascertain the actual state of Mr Brathwaite's knowledge or belief as to the facts.

The panel considered that Mr Brathwaite was educated to a postgraduate level and had no reason to believe that he was incapable of understanding or recalling the circumstances around his convictions.

In fact, Mr Brathwaite had declared some of his convictions on his initial application form. The panel therefore had no reason to believe that Mr Brathwaite had simply forgotten or could not recall the existence of the conviction for possession of criminal property.

The panel concluded that Mr Brathwaite knowingly provided inaccurate information as part of his application to work at the School. The panel therefore concluded Mr Brathwaite knew he was acting dishonestly in failing to disclose his conviction for possession of criminal property.

Regarding Mr Brathwaite's battery conviction, the panel had not been presented with any evidence to suggest that Mr Brathwaite had forgotten or not been aware that the victim of his crime was a police officer.

In fact, Mr Brathwaite was required to pay compensation to that police officer as part of his sentence.

The panel concluded, on the balance of probabilities, that Mr Brathwaite not only knew the information he provided in his application was inaccurate and misleading regarding

the battery conviction, but that he intentionally presented that information in a way that was inaccurate and intended to mislead.

Specifically with respect to Mr Brathwaite's failure to use the word "fraud" when describing the 2009 conviction, and his entirely inaccurate description of that offence, the panel was unable to identify any alternative explanation as to how Mr Brathwaite could have honestly misremembered the facts of the conviction.

The panel concluded that Mr Brathwaite's account relating to door-to-door sales was entirely fabricated. The panel was particularly compelled by the fact Mr Brathwaite had pleaded guilty to having used cloned credit cards to purchase two laptops. His guilty plea confirmed that he was categorically aware of the nature of the offence he was pleading guilty to, and further that he knew exactly what the offence related to.

The panel concluded that Mr Brathwaite knew he had a conviction for fraud, and that he knew it was dishonest to not use that specific word.

The panel further found that Mr Brathwaite knew the facts around that fraud conviction and knew that it was dishonest to fabricate an entirely different, alternative, narrative.

The panel concluded that Mr Brathwaite's actual state of mind in relation to the facts was consistent with someone behaving dishonestly on a subjective level: he knew he was providing inaccurate and misleading information, and that it was dishonest to do so.

The panel then moved to consider if Mr Brathwaite's conduct would be considered dishonest by the standards of ordinary, decent people.

The panel was assisted by guidance from the case of *Wingate & Anor v The Solicitors Regulation Authority*, which states "*honesty is a basic moral quality which is expected of all members of society. It involves being truthful about important matters [...] Telling lies about things that matter [...] [is] generally regarded as dishonest conduct [...] The legal concept of dishonesty is grounded upon the shared values of our multi-cultural society. Because dishonesty is grounded upon basic shared values, there is no undue difficulty in identifying what is or is not dishonest.*"

The panel considered that Mr Brathwaite had actively lied on his application to work at the School, specifically regarding his description of the fraud offence. The panel further considered that Mr Brathwaite had lied by omission in failing to disclose the possession of criminal property conviction, failing to disclose that the victim of his battery conviction was a police officer, and failing to specifically use the word "fraud" when describing this conviction.

The panel recognised that these were plainly and fundamentally dishonest acts or omissions which would be considered dishonest by the standards of ordinary, decent people.

The panel therefore concluded that Mr Brathwaite had acted dishonestly, both subjectively and objectively.

The panel therefore found allegation 7 proven.

## **Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence**

Having found all of the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to:

- In respect of allegations 1(a), 1(b), 1(c), 2, 3 and 4, conviction of a relevant offence.
- In respect of allegations 5, 6 and 7, unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the Advice.

### Conviction of a relevant offence

The panel considered that it needed to decide on the balance of probabilities whether the offences found proven to have been committed at allegations 1(a), 1(b), 1(c), 2, 3 and 4, amounted to convictions of a relevant offence.

The panel noted that allegations 1(a)-(c), 2 and 3 related to convictions which occurred in 2005, 2007 and 2009, respectively. The panel noted that a considerable amount of time had passed since the convictions had occurred, but recognised that it needed to consider convictions from “any” time, regardless of when the convictions had occurred.

The panel noted that the concept of convictions being “spent” was irrelevant when applied to the teaching profession, and specifically did not have any relevance to the task the panel had before it in determining if Mr Brathwaite’s convictions were “relevant”.

The panel noted the Advice which states that an offence can be considered relevant even if it did not involve misconduct in the course of teaching.

The panel deliberated on the nature and the gravity of the offences. In these circumstances, the panel concluded that the nature and gravity of the offences outlined in allegations 2-4 were serious.

Allegation 2 related to a violent offence (battery). The Advice states at paragraph 34 that an offence which involves violence is likely to be considered a relevant offence. The panel considered that violent offences could be indicative of a general propensity towards



violence, and noted the importance of safeguarding children against violent or potentially violent individuals.

Allegation 3 related to a fraudulent offence. The Advice states at paragraph 34 that an offence which involves fraud or serious dishonesty is likely to be considered a relevant offence. The panel specifically noted the memorandum of conviction which described the offence as “*deliberately planned dishonesty*”. The panel concluded that this was an offence involving both fraud and serious dishonesty.

Allegation 4 related to a sexual offence against an individual aged over 13. The Advice states at paragraph 34 that an offence which involves sexual activity is likely to be considered a relevant offence. The panel recognised that sexual offences are towards the most severe and serious end of the spectrum of offences.

The panel concluded that the offences at allegations 2-4 were extremely serious offences, which indicated towards them being considered relevant offences.

With respect to allegations 1(a)-(c), the panel did not, *prima facie*, consider that these offences appeared to constitute convictions of a serious nature. The panel did not consider that they involved “serious” driving offences per paragraph 34 of the Advice, and noted that Mr Brathwaite was not convicted of theft in relation to the car, which the panel took to mean that he had never intended to permanently deprive the owner of the car. The panel did not consider these convictions, on their own, to be capable of impacting Mr Brathwaite’s ability to teach.

However, the panel considered that allegations 1(a)-(c), when cumulated with the other allegations found proved and the convictions forming the basis of those allegations, could be seen as more serious than when considered independently. The panel concluded that allegations 1(a)-(c), although relating to less serious offences and conduct, proved to be the starting point for what ultimately became a series of convictions relating to increasingly serious conduct committed by Mr Brathwaite.

The panel therefore felt it appropriate to consider allegations 1(a)-(c) in the context of all Mr Brathwaite’s convictions. On this basis, the panel concluded that allegations 1(a)-(c) were serious.

The panel referred to paragraph 33 of the Advice which states that a conviction for any offence that led to a term of imprisonment, including any suspended sentence, will likely be considered a relevant offence.

The panel noted that, with respect to allegation 4, Mr Brathwaite had been sentenced to 18 months’ imprisonment, suspended for 24 months.

The panel was satisfied that the conduct of Mr Brathwaite, in relation to the facts it found proved in relation to allegations 1(a)-4, involved breaches of the Teachers’ Standards

from July 2011 (introduction updated June 2013, latest terminology updated December 2021) (“the Standards”). The panel considered that by reference to Part 2 of the Standards, Mr Brathwaite was in breach of the following:

- 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
  - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel noted that Mr Brathwaite’s conduct in relation to the convictions could be relevant to teaching, working with children and/or working in an education setting. Specifically, Mr Brathwaite’s criminal history includes a combination of violent, fraudulent, dishonest, and sexual offences. The panel considered that these behaviours were not compatible with working in an education setting.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Brathwaite’s behaviour in committing these offences could undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that there was no evidence of mitigation provided within the bundle, but noted that Mr Brathwaite had ultimately disclosed the existence of some of his convictions to the School, albeit in an unsatisfactory manner by deliberately failing to disclose significant pieces of information.

The panel considered it was necessary to find that these convictions constituted relevant offences, to reaffirm clear standards of conduct and maintain public confidence in the teaching profession.

Accordingly, the panel concluded that Mr Brathwaite had committed a relevant offence in respect of allegations 1(a), 1(b), 1(c), 2, 3 and 4.

#### Allegations 5, 6 and 7 – Unacceptable professional conduct

The panel was satisfied that the conduct of Mr Brathwaite, in relation to the facts found proved in respect to these allegations, involved breaches of the Standards. The panel

considered that, by reference to Part 2 of the Standards, Mr Brathwaite was in breach of the following:

- 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
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel considered that Mr Brathwaite had not built relationships rooted in mutual respect when he dishonestly provided inaccurate and misleading information when applying for a job at the School. He failed to respect the School's duty to conduct informed and 'safer recruitment' exercises by denying it the opportunity to have a full and honest account of his convictions. The panel further concluded that engaging in sexual activity on school premises did not indicate respect for pupils, colleagues and the School in general.

The panel also considered that engaging in sexual activity on school premises was not consistent with observing proper boundaries appropriate to a teacher's position.

The panel considered that Mr Brathwaite did not have regard for the need to safeguard pupil's wellbeing in accordance with statutory provisions. As referenced above, the School was not able to follow the 'safer recruitment' practices set out in the Keeping Children Safe in Education guidance, as it had not been provided with full details regarding Mr Brathwaite's convictions.

While the panel accepted that Mr Brathwaite's understanding was that pupils had left the School premises at the time he engaged in sexual activity with Colleague A, it was also clear from the bundle that Mr Brathwaite knew the door to the classroom did not lock. The panel considered there was a real risk that anyone present on school premises could have witnessed Mr Brathwaite and Colleague A engaging in sexual activity.

The panel considered that Mr Brathwaite did not show respect for the rights of others in his failing to accurately inform the School about his convictions, and also in engaging in sexual activity on school premises.

The panel concluded that Mr Brathwaite had acted inconsistently with regard to the ethos, policies and practices of the School, specifically with respect to allegations 5 and 7. The application form clearly set out that Mr Brathwaite needed to provide “*information about ALL [sic] convictions*”, setting out a clear policy and practice which Mr Brathwaite did not follow.

The application form further stated: “*We are committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and we expect all staff and volunteers to share this commitment.*” The panel took this as the School demonstrating its ethos with respect to safeguarding, and Mr Brathwaite did not act in line with this ethos.

The panel considered that Mr Brathwaite did not act within the statutory frameworks which set out teachers’ professional duties and responsibilities. Specifically, in failing to provide the School with full and frank information relating to his convictions, he failed to engage with his responsibility to facilitate ‘safer recruitment’ as per KCSIE. Additionally, engaging in sexual activity in the classroom was inconsistent with the Standards, which are underpinned by legislation.

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

The Advice indicates that where behaviours associated with the offence types listed on pages 12 and 13 of the Advice exist, a panel is more likely to conclude that an individual’s conduct would amount to unacceptable professional conduct. The panel therefore considered whether Mr Brathwaite’s conduct displayed behaviours associated with any of those offence types.

The panel found these were allegations involving serious dishonesty and sexual activity.

Accordingly, the panel was satisfied that Mr Brathwaite was guilty of unacceptable professional conduct with respect to allegations 5, 6 and 7.

#### Allegations 5, 6 and 7 – Conduct that may bring the profession into disrepute

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 panel considered that the public have a right to assume that teachers will provide full and frank disclosure where required during a recruitment process, in order to ensure the safeguarding of children. Mr Brathwaite fell short of this expectation.

Additionally, the panel considered that the public would not consider it to be appropriate or professional for teachers to engage in sexual activity on school premises such as in the context of the conduct found proven at allegation 6.

The panel concluded that the public could be deeply concerned about the conduct found proved in allegations 5, 6 and 7.

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

As before, the Advice indicates that where behaviours associated with the offence types listed on pages 12 and 13 of the Advice exist, a panel is more likely to conclude that an individual's conduct would amount to conduct that would bring the profession into disrepute. The panel therefore considered whether Mr Brathwaite's conduct displayed behaviours associated with any of those offence types.

As before, the panel concluded that this was a case involving serious dishonesty and sexual activity.

Bearing in mind all of the above, the panel found that Mr Brathwaite's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 5, 6 and 7 proved, the panel concluded that Mr Brathwaite'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, conduct that may bring the profession into disrepute and conviction of a number of relevant offences, 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, namely:

- the safeguarding and wellbeing of pupils and the protection of other members of the public;
- the maintenance of public confidence in the profession;
- 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 regarding Mr Brathwaite's behaviour, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

On this point, the panel particularly noted that Mr Brathwaite had engaged in sexual activity while on school premises and concluded that this held particular risk around the safeguarding and wellbeing of pupils. The panel were concerned about the potential consequences for pupils, and indeed other members of the public, who could have unintentionally witnessed Mr Brathwaite engaging in sexual activity on school premises.

The panel further considered that the nature of Mr Brathwaite's convictions included fraudulent, violent and sexual offences provided a real safeguarding risk with regards to pupils. The panel considered that Mr Brathwaite's convictions demonstrated a propensity towards violent behaviour (both in the traditional meaning of the word and also with respect to sexual violence) and dishonesty (demonstrated by his conviction for fraud, and his dishonest behaviour as found proven at allegation 7).

The panel had serious concerns about risk to pupils and other members of the public if Mr Brathwaite were to continue in the teaching profession.

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

The panel noted the need to consider the perspective of the ordinary, intelligent and well-informed citizen who appreciated the seriousness of the proposed sanction of a prohibition order, and also recognised the high standards expected of all teachers.

The panel observed that Mr Brathwaite's history showed he received multiple convictions for a variety of behaviours, which escalated over time. The most serious of these convictions was for a sexual assault which took place while Mr Brathwaite was employed as a teacher, albeit not during the actual course of teaching. The panel concluded that public confidence in the profession would be affected by the knowledge that an individual with an escalating history of serious criminal activity was teaching children.

The panel was unable to conceive of any perspective through which public confidence in the profession would not be negatively affected by the knowledge that a teacher had engaged in sexual activity on school premises.

The panel also considered that Mr Brathwaite's dishonesty in failing to disclose all of his convictions, and further his deliberate decision to provide a false narrative in relation to his fraud conviction, would significantly impair public confidence in the profession.

The public expects teachers to be honest, particularly in matters as important as recruitment exercises which are necessarily conducted with safeguarding children as the prime consideration.

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 to have been committed by Mr Brathwaite was outside that which could reasonably be tolerated.

As set out above, Mr Brathwaite's history of increasingly serious criminal offences, combined with his engaging in sexual activity on school premises, and his dishonesty in providing misleading and inaccurate information as part of his recruitment process fell significantly short of the proper standards of conduct expected of a teacher. The panel were aware of the importance of the TRA's role in declaring and upholding those standards.

In view of the clear public interest considerations that were present, the panel considered carefully whether it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Brathwaite. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

Ultimately, the panel concluded that while it was mindful of Mr Brathwaite's rights, the public interest considerations being so significant outweighed Mr Brathwaite's rights and tended instead towards a prohibition order being appropriate and proportionate.

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;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures;
- 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);
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of children (as set out in Part 1 of KCSIE);
- a deep-seated attitude that leads to harmful behaviour;
- 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 [...];
- collusion or concealment including:
  - encouraging others to break rules;
  - lying to prevent the identification of wrongdoing.

The panel considered that the conduct as found proved demonstrated a serious departure from the Standards, as set out in its findings of facts.

With respect to Mr Brathwaite's convictions, the panel had already identified that the convictions associated with allegations 2-4 were serious criminal offences, and that the convictions associated with allegations 1(a)-(c) constituted serious criminal offences when taken in the broader context of Mr Brathwaite's conviction history as a whole.

As set out in the public interest considerations section of this document, Mr Brathwaite's misconduct presented a real risk of affecting the wellbeing of pupils. These explanations also apply to the panel's conclusion that Mr Brathwaite had exposed children to risk and failed to promote the safety and welfare of children as set out in Part 1 of KCSIE.

The panel considered that, due to Colleague A's position as a [REDACTED] Mr Brathwaite, there was evidence that by engaging in sexual activity with her, Mr Brathwaite had abused his position. The panel considered the imbalance of power between [REDACTED]. The panel concluded that Colleague A had been entitled to look to Mr Brathwaite as an appropriate role model. By engaging in sexual activity with Colleague A, Mr Brathwaite in fact modelled very inappropriate behaviour.

The panel noted that it was not tasked with considering the extent to which Mr Brathwaite's conduct was sexually motivated. However, it acknowledged that he actively engaged in activity with Colleague A which was, in its nature, sexual.

The panel observed that Mr Brathwaite possessed deep-seated attitudes in many respects, that lead to harmful behaviour. These included (but were not limited to) the concept of honesty and the ethos of the School.



The panel had established as a matter of fact that Mr Brathwaite had behaved dishonestly with respect to the provision of misleading and inaccurate information during his application to work at the School.

The panel considered that, with respect to engaging in sexual activity with Colleague A on school premises, he had encouraged Colleague A to break rules. It was clearly not acceptable to engage in sexual activity in a classroom, but it appeared to be Mr Brathwaite's own position that he and Colleague A willingly engaged in this act.

With respect to his conduct during applying to work at the School, the panel had no doubt that Mr Brathwaite had lied about his convictions to prevent the identification of wrongdoing. This included not disclosing his possession of criminal property conviction on his initial application form, avoiding disclosing that the victim of his battery conviction had been a police officer, and the provision of an entirely false narrative with respect to his fraud conviction.

In an undated letter sent to the TRA as part of the investigation leading to these proceedings, Mr Brathwaite stated that he "*was not proud of the convictions and played down the details*" in his application to work at the School.

The panel noted that the list of behavioural considerations in the Advice was not exhaustive, but it did not identify any additional behaviours of concern.

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 any mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel noted that Mr Brathwaite did not attend the hearing. The panel concluded that this was regrettable as it meant it was not furnished with any potential mitigation evidence Mr Brathwaite may have been able to provide to further inform the panel.

There was no evidence that Mr Brathwaite's actions were not deliberate.

Additionally, there was no evidence to suggest that Mr Brathwaite was acting under extreme duress. On assessment of the documentary evidence and in the absence of any alternative innocent explanation being presented by Mr Brathwaite, the panel determined that Mr Brathwaite had acted entirely of his own volition with respect to all of the allegations.

The panel noted that the evidence of Witness A was that Mr Brathwaite had received a "*glowing recommendation*" from the school he worked at before applying to the School, and that Witness A herself appeared to view Mr Brathwaite as a quality educator in terms of his interactions with pupils.

However, there was no evidence that Mr Brathwaite demonstrated exceptionally high standards in both personal and professional conduct and had contributed significantly to the education sector. As set out above, Mr Brathwaite did not attend the hearing. While he did provide some documents as part of the TRA's preparation process and responded to some emails and phone calls, he did not meaningfully engage in the process by way of presenting his version of events. The panel therefore had only limited evidence on which to base its conclusions regarding Mr Brathwaite's level of insight and remorse in connection with the allegations.

The panel considered a letter Mr Brathwaite had written to the TRA, which it deduced was sent prior to June 2024, in which he stated: "*I am in no way pleased by the issues that were raised and in allowing myself to be put in a situation where my career [...] [was] on the line*". The panel took this to refer to the sexual activity with Colleague A on school premises.

The panel concluded that this failed to indicate any insight on the part of Mr Brathwaite with regards to how that specific incident had occurred and his part to play in it. Mr Brathwaite did not present any evidence as to whether he acknowledged that engaging in sexual activity on school premises was unacceptable, nor how he would prevent it from happening again. In fact, the panel considered that Mr Brathwaite appeared to present himself as having been "*put in a situation*" by someone else, rather than that he had been an active participant of the sexual activity concerned.

While Mr Brathwaite did demonstrate some insight and/or remorse with respect to the convictions detailed in allegations 1(a)-3 in that he said he "*was not proud*" of them, this was the extent of the information provided. The panel were therefore not able to take an informed view on whether Mr Brathwaite understood the triggers and motivations that had caused him to commit those acts in the first place, nor if he had taken any measures to prevent himself from doing so again.

The panel considered that a significant period of time elapsed between Mr Brathwaite's first conviction in 2005 and his most recent in 2019. The panel considered that this could have been a sufficient amount of time for Mr Brathwaite to develop insight and show remorse for those behaviours and to put in place measures to prevent repetition. Instead, the evidence appeared to show an escalation of behaviours, rather than active intervention from Mr Brathwaite to prevent himself from behaving unacceptably in the future.

With risk of repetition forming a key part of the panel's deliberations in respect of its recommendations to impose a prohibition order, the panel concluded that there was a risk of repetition of Mr Brathwaite in respect of potentially all of the behaviours forming part of the allegations found proven at this hearing.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would be neither a proportionate nor an 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 Mr Brathwaite 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 Mr Brathwaite. The escalating nature of Mr Brathwaite's convictions up to the most serious end of the spectrum (i.e. sexual offences); the serious nature of the non-criminal conduct found proved with respect to the non-conviction related allegations (namely engaging in sexual activity on school premises and dishonestly providing inaccurate and misleading information as part of the recruitment process); the absence of mitigating factors; and, the lack of demonstrable insight and/ or remorse from Mr Brathwaite were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would engage the public interest to a greater degree and will weigh in favour of not recommending a review period. One of these behaviours includes serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his/her professional position to influence or exploit a person or persons. The panel found that Mr Brathwaite had committed serious sexual misconduct by engaging in sexual activity with Colleague A on school premises. That misconduct undoubtedly had the potential to result in harm to pupils or other members of the public. The panel also considered that Mr Brathwaite may have used his position as a qualified teacher to exploit Colleague A's position as a teaching assistant.

The panel therefore recognised that this finding indicated towards a recommendation of a prohibition order with no review period.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. These behaviours include fraud

or serious dishonesty and violence. The panel found that Mr Brathwaite had committed a relevant offence for fraud and further that he had committed a non-criminal act of serious dishonesty by way of his conduct in applying for a job at the School. The panel further found that Mr Brathwaite had committed a relevant offence for battery, which is a violent offence, as well as sexual assault which is inherently violent in its nature.

The panel noted that these behaviours indicated a recommendation of a longer review period might be appropriate. They could also be considered in conjunction with the previously identified behaviour which suggested no review period might be appropriate.

The panel decided that, on balance, the findings in this case indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

## **Decision and reasons on behalf of the Secretary of State**

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

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

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

The panel has made a recommendation to the Secretary of State that Mr Robert Brathwaite should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Brathwaite 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
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others

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

The panel was satisfied that the conduct of Mr Brathwaite involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

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

The findings of misconduct are particularly serious as they include findings of providing inaccurate/misleading information, dishonesty, sexual activity on school premises and a number of relevant convictions including battery, fraud and sexual assault.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct or conduct likely to bring the profession into disrepute, or a relevant conviction, 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 Brathwaite and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel has observed, "Mr Brathwaite had engaged in sexual activity while on school premises and concluded that this held particular risk around the safeguarding and wellbeing of pupils." And the panel further considered "that the nature of Mr Brathwaite's convictions included fraudulent, violent and sexual offences provided a real safeguarding risk with regards to pupils." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Brathwaite did not attend the hearing. While he did provide some documents as part of the TRA's preparation process and responded to some emails and phone calls, he did not meaningfully engage in the process by way of presenting his version of events. The panel therefore had only limited evidence on which to base its conclusions regarding Mr Brathwaite's level of insight and remorse in connection with the allegations." The panel has also commented that "The panel concluded that this failed to indicate any insight on the part of Mr Brathwaite with regards

to how that specific incident had occurred and his part to play in it. Mr Brathwaite did not present any evidence as to whether he acknowledged that engaging in sexual activity on school premises was unacceptable, nor how he would prevent it from happening again. In fact, the panel considered that Mr Brathwaite appeared to present himself as having been “*put in a situation*” by someone else, rather than that he had been an active participant of the sexual activity concerned.”

In my judgement, the lack of evidence of full insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Brathwaite’s behaviour in committing these offences could undoubtedly affect public confidence in the teaching profession, particularly given the influence that teachers may have on pupils, parents and others in the community.” I am particularly mindful of the finding of multiple convictions for a variety of behaviours, which escalated over time in this case and the impact that such findings 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 or conduct likely to bring the profession into disrepute, or a relevant conviction, 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 Brathwaite himself and the panel comment “The panel noted that the evidence of Witness A was that Mr Brathwaite had received a “*glowing recommendation*” from the school he worked at before applying to the School, and that Witness A herself appeared to view Mr Brathwaite as a quality educator in terms of his interactions with pupils.” The panel went on to say “However, there was no evidence that Mr Brathwaite demonstrated exceptionally high standards in both personal and professional conduct and had contributed significantly to the education sector.”

A prohibition order would prevent Mr Brathwaite 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 concerning the lack of full insight or remorse, "The panel considered that a significant period of time elapsed between Mr Brathwaite's first conviction in 2005 and his most recent in 2019. The panel considered that this could have been a sufficient amount of time for Mr Brathwaite to develop insight and show remorse for those behaviours and to put in place measures to prevent repetition. Instead, the evidence appeared to show an escalation of behaviours, rather than active intervention from Mr Brathwaite to prevent himself from behaving unacceptably in the future."

I have also placed considerable weight on the finding of the panel that "With risk of repetition forming a key part of the panel's deliberations in respect of its recommendations to impose a prohibition order, the panel concluded that there was a risk of repetition of Mr Brathwaite in respect of potentially all of the behaviours forming part of the allegations found proven at this hearing."

I have carefully considered the risk to pupils in this case and given considerable weight to the following, "The panel further considered that the nature of Mr Brathwaite's convictions included fraudulent, violent and sexual offences provided a real safeguarding risk with regards to pupils."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Brathwaite has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel's comments "The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. These behaviours include fraud or serious dishonesty and violence. The panel found that Mr Brathwaite had committed a relevant offence for fraud and further that he had committed a non-criminal act of serious dishonesty by way of his conduct in applying for a job at the School. The panel further found that Mr Brathwaite had committed a relevant offence for battery, which is a violent offence, as well as sexual assault which is inherently violent in its nature."

The panel also said "The panel found that Mr Brathwaite had committed serious sexual misconduct by engaging in sexual activity with Colleague A on school premises. That

misconduct undoubtedly had the potential to result in harm to pupils or other members of the public. The panel also considered that Mr Brathwaite may have used his position as a qualified teacher to exploit Colleague A's position as a teaching assistant.

The panel therefore recognised that this finding indicated towards a recommendation of a prohibition order with no review period."

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings, the lack of full insight and remorse and the risk of repetition.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

**This means that Robert Brathwaite is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Brathwaite shall not be entitled to apply for restoration of his eligibility to teach.

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

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

A handwritten signature in black ink, appearing to read 'S Buxcey', with a stylized, cursive script.

**Decision maker: Sarah Buxcey**

**Date: 25 September 2024**

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