



Teaching
Regulation
Agency

Mrs Arlette Otshudi- Bibila: Professional conduct panel outcome

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

October 2024

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

Teacher:	Mrs Arlette Otshudi-Bibila
TRA reference:	20565
Date of determination:	30 October 2024
Former employer:	Bow School, London and, subsequently, Odyssey House School, London.

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 27 to 30 October 2024 by way of a virtual hearing, to consider the case of Mrs Arlette Otshudi-Bibila.

The panel members were MS Charlotte Kelly (lay panellist – in the chair), Mr Paul Millett (lay panellist) and Mrs Julie Wells (teacher panellist).

The legal adviser to the panel was Ms Helen Kitchen of Blake Morgan LLP, solicitors.

The presenting officer for the TRA was Mr Adam Slack of Capsticks LLP, solicitors.

Mrs Arlette Otshudi-Bibila (Mrs Bibila) was present and was represented by Ms Penny Maudsley of Counsel.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 12 August 2024.

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

1. Between 1 September 2018 and 31 August 2021, while employed by Bow School she:
 - a. Emailed personal and/or sensitive data belonging to pupils to her personal email address;
 - b. Stored personal and/or sensitive data belonging to pupils on her personal computer and/or in her personal OneDrive account;
 - c. Emailed personal and/or sensitive data belonging to members of staff of the School to her personal email address;
 - d. Stored personal and/or sensitive data belonging to members of staff of the School on her personal computer and/or in her personal OneDrive account;
 - e. Stored personal and/or sensitive data belonging to Bow School to a USB stick.
2. Between 1 September 2021 and 31 October 2021, she:
 - a. Emailed personal and/or sensitive data belonging to Bow School, to her email address at Odyssey House School without consent and/or permission of Bow School;
 - b. Emailed personal and/or sensitive data belonging to pupils at Bow School to her email address at Odyssey House School without consent and/or permission;
 - c. Emailed personal and/or sensitive data belonging to members of staff at Bow School to her email address at Odyssey House School without consent and/or permission.
3. Between 1 September 2021 and 12 November 2021, while employed by Odyssey House School she:
 - a. Emailed personal and/or sensitive data belonging to pupils to her personal email address;

- b. Emailed personal and/or sensitive data belonging to Odyssey House School to her personal email address;
 - c. Emailed personal and/or sensitive data belonging to Odyssey House School to her Bow House School email address;
 - d. Emailed personal and/or sensitive data belonging to pupils to a third party;
 - e. Stored personal and/or sensitive data belonging to pupils on her personal computer and/or in your personal OneDrive account;
 - f. Accessed her former email account, belonging to Bow House School, without permission.
4. Between 9 November 2021 and 12 November 2021, whilst employed at Odyssey House School, she deleted the personal and/or sensitive data belonging to Bow School from her work computer, after being informed of a School data audit to conceal her possession of the material;
5. Her conduct as set out at paragraph 4 was dishonest and/or lacked integrity.

Preliminary applications

Before the allegations were read the panel was invited to consider two distinct preliminary applications pursuant to the 'Teacher misconduct: Disciplinary procedures for the teaching profession' ("the Procedures"), which were addressed in turn.

In relation to each application, the panel carefully considered the parties' submissions. It accepted the legal advice provided.

Application to admit hearsay evidence

An application was made on behalf of the TRA to admit hearsay evidence, namely a signed witness statement and exhibits from Individual 1 in her absence.

Individual 1's statement concerned her being instructed by Bow School to investigate concerns about a potential data breach which included her reviewing documents, emails and Power-Points downloaded from Mrs Bibila's Bow School OneDrive and copied to a server at Odyssey School, and reviewing the London Grid for Learning (LGFL) email server used by Bow School to review emails sent by Mrs Bibila. She produced a report in which she recorded her findings.

The TRA submitted that Individual 1's evidence, whilst relevant, was not sole and decisive and was demonstrably reliable in light of the admissions made in the documents

provided by Mrs Bibila. It submitted that these demonstrated that there was no dispute about the veracity of Individual 1's evidence and report. In addition, it submitted that the evidence of Witness 2, whose statement exhibited copies of the downloaded files, may be questioned to test the reliability of the evidence of the data downloaded.

The TRA stated that Individual 1 had been advised of the re-scheduled hearing date of 28 October 2024 in late August 2024, at which time she informed the TRA that she would be abroad at the time of the hearing as it was the half term period. She was abroad and was uncertain if she could provide her evidence from her location.

Mrs Bibila's position was neutral on the admission of the statement.

Neither party sought an adjournment to enable the attendance of Individual 1 to be secured at a future hearing date.

The panel noted that within the documents before it, Mrs Bibila had made admissions to allegations 1 to 3 and had stated that there are inaccuracies in Individual 1 report and that the report contained limited technical information.

The panel took account of the various factors referred to in the legal advice provided to it.

The panel found the evidence to be relevant to the case.

The panel then went on to carefully consider if it would be fair to admit the evidence of Individual 1 in all of the circumstances of the case.

The panel considered that the TRA had made reasonable efforts to secure the attendance of Individual 1 whose statement provided relevant information.

On balance the panel decided not to admit the statement for the following reasons:

- That the factual parts of the allegations to which the statement was relevant had been admitted by Mrs Bibila but the statement also addressed issues that would impact on the non-admitted parts of the allegations, with regard to the assessment of whether the conduct was unacceptable professional conduct and/or conduct that may bring the teaching profession into disrepute.
- That evidence would be available to it from Witness 2, who is attending as a witness, and would provide evidence about a number of the issues in Individual 1's statement, the reliability of which may be tested by questioning.
- That Mrs Bibila would not have the opportunity to cross-examine Individual 1, who was the [REDACTED], and whose evidence, if admitted, may carry particular weight in the proceedings. Mrs Bibila would not be able to put to Individual 1 any issues she may wish to raise including those about claimed inaccuracies and lack of technical detail in Individual 1's report referenced in the case papers. In these

circumstances the admission of the witness statement would create an unfairness to Mrs Bibila.

The panel determined that if it considered that it would be unfair for Mrs Bibila not to be able to question the witness it would give no further consideration to the weight that it would have given to this witness statement.

In all of the circumstances of the case and taking into account the above factors, it would not be in the interests of justice and fairness for the statement to be admitted.

The statement of Individual 1 was disregarded by the panel and was not taken into account in its consideration of Mrs Bibila's case.

Having reached this decision, the panel considered whether it was appropriate for it to adjourn to secure the attendance of Individual 1.

It accepted the advice of the legal adviser on this issue.

The panel took into account the interests of justice in hearings being held in a timely manner and potentially serious allegations being considered and determined and Mrs Bibila's interests and the risk of prejudice. It also took into account that arrangements had been made for the hearing to be held and witnesses to attend. Three witnesses were called and ready to attend on the first day of the hearing. If it was adjourned, it is likely that some time would elapse before the case would be heard. The panel also considered that it had sufficient information within the case documents before it (without the statement of Individual 1) to enable it to properly consider the case.

On balance, the panel decided that it was in the interests of justice and in the interests of Ms Bibila for the case to continue.

Application to offer no evidence

An application was made on behalf of the TRA to offer no evidence and so effectively to discontinue allegations 4 and 5.

The basis of the application is the non-engagement of Individual 2 with the TRA process.

The TRA submitted that Individual 2 produces the sole and decisive evidence in support of a key part of allegation 4, that of Mrs Bibila allegedly being aware of a data audit at a particular point in time, an allegation to which allegation 5 is inextricably linked. In such a circumstance the TRA submitted that it would be unfair to seek to admit his documents, a timeline and a meeting note provided by Odyssey School, as hearsay. In the absence of evidence from Individual 2 the TRA say there is no evidence to support allegations 4 and 5 and propose to discontinue them by formally offering no evidence in respect of them.

Mrs Bibila raised no objection to the application.

The panel accepted the legal advice provided to it in relation to this application.

The panel agreed to no evidence being offered and so to the effective discontinuance of allegations 4 and 5 for the following reasons:

- An adjournment was unlikely to lead to Individual 2's attendance and it is in the interests of justice and Mrs Bibila's interests for the matter to be considered and heard at this scheduled hearing.
- It would be unfair to Mrs Bibila to admit the hearsay evidence of Individual 2, for the following reasons:
 - It was considered the sole and determinative evidence in relation to the key element of allegation 4 and allegation 5.
 - Allegations 4 and 5 were serious allegations of inappropriate and dishonest conduct.
 - The evidence of Individual 2 was disputed by Mrs Bibila, who would have no opportunity to test that evidence if it was admitted in his absence.
 - The panel had no signed TRA or other statement from Individual 2 who it was understood had not engaged with the TRA.
- In the absence of any evidence from Individual 2, there was no, or insufficient, evidence on which the panel could find allegations 4 and 5 proven.
- In this circumstance it was the fair and appropriate step for the TRA to offer no evidence in relation to allegations 4 and 5 and for the panel to find the facts of these allegations not proven.

The panel formally found allegations 4 and 5 not proved and they were not considered further in the hearing.

The information provided by Individual 2 was disregarded by the panel and was not taken into account in its consideration of Mrs Bibila's case.

Application to admit further documents

An application was made on behalf of Mrs Bibila to admit a "Defence Facts Bundle" which comprised:

Item 1: Statement of Mrs Bibila - pages 3-18

Item 2: Confirmation of reference request – pages 19-20

Item 3: Email Bow School to Mrs Bibila – page 21

No objection was raised by the TRA to these documents being admitted and the panel determined to admit them in the interests of fairness and justice.

Admissions

Mrs Bibila made admissions to in relation to the facts of allegations 1(a) to (e), 2(a) to (c) and 3(a) to (f).

Mrs Bibila denied that allegations 1(a) to (e), 2(a) to (c) and 3(a) to (f) amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Summary of Evidence

Documents

In advance of the hearing, the panel received the following documents:

1. A bundle of documents which included:
 - Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 6
 - Section 2: Notice of proceedings – pages 7 to 25
(nb. pages 26 to 27 were blank)
 - Section 3: Teaching Regulation Agency witness statements – pages 28 to 43
 - Section 4: Teaching Regulation Agency documents – pages 44 to 583
 - Section 5: Teacher documents – pages 584 to 690
2. An application by TRA to admit hearsay evidence of Individual 1 and offer no evidence in respect of allegations 4 and 5 - pages 1 to 3

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

In the consideration of this case, the panel had regard to the document *Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2020* (the “Procedures”).

Witnesses

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

- Witness 1 - [REDACTED]
- Witness 2 - [REDACTED]
- Witness 3 - [REDACTED]

Mrs Bibila also gave evidence to the panel.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it reached a decision

Introduction

Mrs Bibila started work at Bow School in September 2015 through an agency and was later employed by Bow School from February 2016 to 1 September 2018 as the School's Special Educational Needs Co-ordinator (SENCO). Bow School is a maintained local secondary school with around 1300 students aged 11-16 on its roll.

On 1 September 2018 Mrs Bibila became an Assistant Headteacher at Bow School, at which time she was also the school's inclusion lead working with whole classes and also small groups of pupils with Special Educational Needs and Disabilities (SEND pupils).

On or around 26 May 2021 Mrs Bibila was offered the role of Deputy Head of School and SENCO at Odyssey House School.

On 31 August 2021 Mrs Bibila left Bow School, having resigned with immediate effect, no concerns having arisen during the course of her employment at the school.

On 31 August 2021, Mrs Bibila contacted Witness 1, to access materials on her designated "home area" on the computer system at Bow School and he provided her with a USB onto which he had uploaded all of the materials from her "home area".

On 1 September 2021 Mrs Bibila officially took up the role of Deputy Head of School and SENCO at Odyssey House School, an independent school for children aged 7-18 with additional needs registered to have up to 30 pupils on roll.

On 11 September 2021 Mrs Bibila contacted Witness 1 again, as the USB had broken, and he emailed to her personal and Odyssey school address a link to which he had uploaded all of the documents contained in her “home area”.

On the late evening of 11 November 2021 Witness 3, at [REDACTED], received an alert that a high volume of material had been deleted from a staff member’s OneDrive that day. The data was later recovered and restored by the IT team at Odyssey school.

On 12 November 2021 Mrs Bibila resigned with immediate effect from Odyssey School. On the same day, as part of a planned IT audit, Odyssey House School analysed the email box of Mrs Bibila and found materials from Bow School.

On around 12 November 2021 Witness 3 called the LADO and was advised to inform Bow School of the documents recovered and to report the matter to various authorities and to make a reference to the TRA, which she did.

Bow School then contacted their [REDACTED], Individual 1, and tasked her to look into the matter.

Evidence considered by the Panel

The panel carefully considered all of the oral and documentary evidence presented and the parties’ submissions.

It accepted the legal advice provided.

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

- Witness 1 - [REDACTED]
- Witness 2 - [REDACTED]
- Witness 3 - [REDACTED]

Mrs Bibila also provided oral evidence to the panel.

Withdrawal of an admission

After the TRA witnesses’ evidence had been heard the panel was made aware that Mrs Bibila wished to withdraw her admission to allegation 2 (c).

Since she made her admission to the allegations in the hearing there had been a change in the situation of the case in that the statement and exhibits of Individual 1, which supported this allegation, had not been accepted into evidence by the panel. In this circumstance Mrs Bibila wished to withdraw her admission in relation to this allegation.

The TRA confirmed that in the absence of evidence from Individual 1 it was relying solely on the admission made by Mrs Bibila to prove this part of the allegation. It contended that it would be an unusual step for a panel to accept the withdrawal of an admission.

The panel and the parties accepted the advice of the legal adviser.

The panel noted the proceedings were at stage where the panel had yet to complete hearing the evidence in the case and had yet to make factual findings on the allegations. It did not consider that there was any issue with the conduct of Mrs Bibila's case and that the issue had properly been brought before the panel. The panel considered that there had been a change in the evidence before it and noted that the TRA had conceded there was now no evidence to support the allegation if the admission was not accepted.

The panel noted that the factual basis of the admission was unclear and that although Mrs Bibila had admitted the allegation, in her written admission she stated she had no recollection of the issues concerned. In all of the circumstances of the case, the panel decided that in the interests of fairness and justice Mrs Bibila should be allowed to withdraw her admission to allegation 3(c).

On the basis that the admission was withdrawn the TRA offered no evidence in relation to allegation 3(c) which was found not proven.

Application to admit further documents

An application was made on behalf of Mrs Bibila to admit a one-page document recording the training that she had undertaken at Odyssey House.

No objection was raised by the TRA to this document being admitted and the panel determined to admit them in the interests of fairness and justice.

Findings of Fact

The panel considered all of the evidence before it, including the mitigation evidence put forward by Mrs Bibila, as regards the work and time pressures she felt under and the lack of evidence of Mrs Bibila receiving training by the schools on GDPR.

The findings of fact are as follows:

- 1. Between 1 September 2018 and 31 August 2021, while employed by Bow School you:**
 - a. Emailed personal and/or sensitive data belonging to pupils to your**

personal email address;

- b. Stored personal and/or sensitive data belonging to pupils on your personal computer and/or in your personal OneDrive account;**
- c. Emailed personal and/or sensitive data belonging to members of staff of the School to your personal email address;**
- d. Stored personal and/or sensitive data belonging to members of staff of the School on your personal computer and/or in your personal OneDrive account;**
- e. Stored personal and/or sensitive data belonging to Bow School to a USB stick.**

Mrs Bibila admitted allegations 1 (a), (b), (c), (d) and (e).

Allegations 1 (a), (b), (c) and (d)

The panel noted that Mrs Bibila had made a clear admission to these parts of the allegation both in her statement and in her oral evidence to the panel. These admissions were consistent with the evidence presented to the panel.

Mrs Bibila had told the panel that when working at Bow School she experienced difficulties with establishing a remote connection to the school. She would routinely email documents which included personal and sensitive data belonging to pupils and members of staff at the school to her personal email address. This was to enable her to work using them on her personal computer at home in the evenings and at weekends in case of problems with remote access. Once she had finished working on them, she would email the documents back to the school. She worked in this way to ensure that she completed her work and met deadlines and managed her work effectively. She wished to maintain her productivity.

By working in this way to produce documents for her school Mrs Bibila must have stored the materials on her personal computer and/or in her personal OneDrive account. She could not have opened, downloaded, updated, amended and/or created work documents and emailed them back to the school without storing them in this way.

Transferring information in this manner put the data at heightened risk of unauthorised disclosure although the panel noted that there was no evidence before it of such disclosure having taken place by virtue of Mrs Bibila's work practice. The panel also noted that only Mrs Bibila had authority to access her computer and her personal and work OneDrive accounts.

The panel accepted that Mrs Bibila had not turned her mind to the issues of risk of breach of confidentiality or data protection that her way of working created.

The panel found allegations 1(a) (b) (c) and (d) proven.

Allegation 1 (e)

The panel noted the wording of this allegation which referenced data being stored by Mrs Bibila to a USB stick.

The panel had heard clear and strong evidence from both the witnesses for the TRA and Mrs Bibila herself, that the Bow School data from Mrs Bibila's "home area" on the school's IT system was stored to the USB stick by Witness 1. This was a task that could only have been undertaken by a member of the IT team. Thus, there was no evidence before the panel that supported the allegation as currently formulated.

The panel did give careful consideration to whether it would be appropriate for it to take steps to seek amendment of the allegation.

The panel took into consideration its role in the regulation of the teaching profession. It also took into account that it had a range of other allegations before it which included allegations based on concerns of a similar nature to those in this allegation (ie the handling of personal and sensitive data) and which were more wide ranging in timescale than this allegation.

In all of these circumstances and in light of the prejudice that any amendment at this late stage would cause to Mrs Bibila, and taking account of the stage reached in the hearing process, the panel decided that it would not be fair and in the interests of justice for it to take the step of amending the allegation.

The case had been on-going for many years, and it was a matter for the TRA to formulate the allegations as it considered appropriate.

In these circumstances the panel found allegation 1(e) not proved.

2. Between 1 September 2021 and 31 October 2021, you:

- a. Emailed personal and/or sensitive data belonging to Bow School, to your email address at Odyssey House School without consent and/or permission of Bow School;**
- b. Emailed personal and/or sensitive data belonging to pupils at Bow School to your email address at Odyssey House School without consent and/or permission;**
- c. Emailed personal and/or sensitive data belonging to members of staff**

at Bow School to her email address at Odyssey House School without consent and/or permission

Allegation 2(a) and 2(b)

Mrs Bibila admitted allegations 2 (a) and 2(b) and her admissions were supported by the evidence presented to the panel.

The panel found that there were two emails in the bundle before it that supported allegation 2(a), being an email dated 6 October 2021 and a further email dated 9 October 2021. These emails belonged to Bow School and contained Bow School personal and sensitive data detailing various Bow School staff discussions, plans and information regarding interactions and proposals for appropriate support for Pupil A and proposed arrangements for exam access for pupils. The emails were sent by Mrs Bibila from her Bow School email address to her Odyssey House email address.

The panel found that the same two emails supported allegation 2(b). Both contained personal and sensitive data belonging to pupils. This variously included pupil's names, information about their SEND status and area of need and, for Pupil A, diagnosis, medical support and strategies to support learning.

Mrs Bibila accepted that she did not have consent from Bow School to email these materials. She would also not have had permission from Bow School as the school were unaware of her having access to these emails. From its perspective, it had stopped access to her Bow School account.

The panel found allegations 2(a) and 2(b) proven.

Allegation 2(c)

The panel could find no evidence to support allegation 2 (c) in the bundle before it and so found this allegation not proved.

- 3. Between 1 September 2021 and 12 November 2021, while employed by Odyssey House School you:**
 - a. Emailed personal and/or sensitive data belonging to pupils to your personal email address;**
 - b. Emailed personal and/or sensitive data belonging to Odyssey House School to your personal email address;**
 - c. (Found not proven at an earlier stage in the hearing).**

- d. Emailed personal and/or sensitive data belonging to pupils to a third party;**
- e. Stored personal and/or sensitive data belonging to pupils on your personal computer and/or in your personal OneDrive account;**
- f. Accessed your former email account, belonging to Bow House School, without permission.**

Mrs Bibila admitted allegations 3(a), 3(b), 3(d), 3(e) and 3(f) and her admissions were supported by the evidence presented to the panel.

The panel considered 3(a), 3(b) and 3(e) together.

Mrs Bibila told the panel that when she moved from Bow School to Odyssey School that she continued the practice of sending documents to her personal email address (as detailed in relation to allegation 1(a) to 1(d) above). This became Mrs Bibila's habitual practice. This resulted in her storing the data on her personal computer and or her personal OneDrive account (also as detailed in relation to 1(a) to (d) above). Mrs Bibila accepted that the emails and stored data included personal and sensitive data belonging to Odyssey School and personal and sensitive data belonging to its pupils.

Mrs Bibila again experienced difficulties with remote access at Odyssey House School and also did not have access to a work computer for periods of time so this was how she addressed those challenges particularly when she had deadlines approaching, almost as an insurance policy in case the remote access did not work.

The panel then considered allegation 3(d).

Odyssey House School confirmed that emails had been found which demonstrated that Mrs Bibila had sent personal and sensitive data regarding pupils to a third party, who had no connection to the school. The panel had those emails before it and noted that several had as an attachment the Odyssey House Provision Map in excel format.

The panel heard evidence, which it accepted, from Witness 3, that the Provision Map would have contained a range of personal and sensitive data about pupils at the school including full names, D.O.B's, needs, looked after children status, medical needs, diagnosis and key worker, amongst other such data.

Mrs Bibila also sent to the same third party an email from a person who appears to be a member of staff at Odyssey providing her with personal and sensitive information about two pupils referring to their behaviours at school and how they may be supported.

The panel also had sight of a letter from the third party which confirmed that, as a friend of Mrs Bibila, they had undertaken work of the type identified, working on an excel

spreadsheet and her emailing it to Mrs Bibila and then deleting the information from their own computer.

With regard to allegation 3(f), in addition to Mrs Bibila's admission to this allegation, which it accepted, the panel had sight of two emails sent by her from her Bow School email account in October 2021, at a time after she had left the school. The panel understood that a "fault" in the relevant email system allowed her this access. This did not mean that she should have accessed the account as she was not at the school and did not have its permission to do so. Bow School believed that the account was disabled and so had not given any permission.

The panel found allegations 3(a), 3(b), 3(d), 3(e) and 3(f) proven.

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

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

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

In reaching its decisions the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers February 2022, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mrs Bibila, in relation to the facts found proved, involved breaches of the Teachers' Standards.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have proper professional regard for the ethos, policies and practice 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 took into account that Mrs Bibila had a senior leadership role at the schools concerned in the allegations. This brings a general responsibility to provide leadership to other staff, to model standards of good behaviour, to highlight concerns about procedures and risk management and to ensure that staff at the schools operated within applicable legal frameworks.

The panel also considered whether Mrs Bibila's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct. The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mrs Bibila in relation to each of the allegations and sub allegations found proven (each of which it considered separately) amounted to misconduct of a serious nature.

The conduct involved transferring and storing personal and sensitive data in a way that put the data at unnecessary risk of inappropriate disclosure and her actions represented a failure to properly consider and respect the privacy and confidentiality of that data.

The sharing of sensitive and confidential material about vulnerable pupils with a third party was particularly serious. Mrs Bibila's actions potentially put the well-being and safety of those pupils, and their data security, at risk.

Having found all of the allegations found proven to be misconduct of a serious nature, the panel then had to consider whether the conduct fell significantly short of the standard of conduct expected of a teacher.

The panel then grouped the following proven allegations in the following way:

Allegations 1 and 3(a), (b) and (e)

The panel found that the conduct in relation to allegations 1 and 3(a), (b) and (e), whilst of a serious nature, did not fall significantly short of the standards expected of the profession and did not bring the profession into disrepute.

The panel was clear that Mrs Bibila should not have acted as she did in e-mailing and storing personal and sensitive information in the way detailed in each of these allegations.

However, it took into consideration the challenges that Mrs Bibila was working under, in seeking to obtain uninterrupted remote access to the schools' IT system out of school hours and in accessing a school laptop. It also took into account that the material was not

made available to any third party and was retained by Mrs Bibila in her personal account/on her personal computer.

The panel accepted that Mrs Bibila was seeking to complete her work effectively and within deadlines and had used the process she described (of emailing documents to her personal e-mail account, working on them, and then emailing work back to her school email account) to ensure that she was able to do so. She was not seeking to undermine the system in place at the school but to work within its constraints.

What she should have done in this situation was to seek a solution, and to continue to pursue the issues she was experiencing within the school, something which she as a member of the senior leadership team would have been well placed to do.

Given that there was no intent to use the information outside the course of her employment and there was no evidence that the information had been shared with any other person the panel determined that this behaviour did not meet the threshold of falling significantly short of the standard of behaviour expected of a teacher.

Allegations 2(a) and 2(b) and 3(f)

The panel found that the conduct in relation to allegations 2 (a) and (b) and 3(f) fell significantly short of the standards expected of the profession and brought the profession into disrepute.

The panel could find no satisfactory explanation for why Mrs Bibila had acted as found proven in allegations 2(a) and (b) and 3 (f). She would have known, as a matter of common sense, that she was not entitled to access, view, forward or use emails from a school where she was no longer working.

The appropriate professional steps she should have taken, as soon as she was aware that she had access to them, was to have deleted the access from her mobile telephone and alerted Bow House and asked them to stop her access. It was inappropriate in the panel's view for Mrs Bibila to have accessed these materials even if she was looking for something to use as a template, an explanation which the panel did not find satisfactory especially in light of the contents of the documents.

In the view of the panel the misconduct fell significantly short of the standard of behaviour expected of a teacher and was conduct likely to bring the profession into disrepute.

Allegations 3(d)

With regard to allegation 3(d), the panel considered that Mrs Bibila had failed to ensure the maintenance of the proper confidentiality of vulnerable children's data. There were no formal checks or safeguards in place to protect the vulnerable children's data which was put at serious risk as a result of being passed to a third party unconnected with the

school. Her knowing the person who received the data or personally thinking them trustworthy does not, by any measure, justify Mrs Bibila's actions.

The reputation of the profession would be damaged in the eyes of the public if parents did not believe that information provided to the school in confidence would remain confidential. This would undermine trust which may have a damaging impact on child protection and safeguarding.

The panel noted that there was an administrator at the school although Mrs Bibila believed that she was not able to use her services. However, there were alternative steps Mrs Bibila could have taken. She could have requested the creation of a blank template spreadsheet from the third party, which she could have populated herself. Alternatively, she could have taken steps to have sought assistance from within the school, or, requested that the school found external provision. In the latter case this would have ensured any necessary checks, such as DBS checks, could be undertaken and a confidentiality agreement put into place. In the last resort Mrs Bibila could have said that she was unable to deliver on this particular piece of work. Instead, to facilitate completion of the relevant document, Mrs Bibila provided a third party with confidential data without the knowledge of the school. As a deputy head of school she was well placed to explore alternative avenues rather than showing disregard for the confidentiality of the personal and sensitive data of vulnerable children. The panel was concerned that such a senior member of staff, who is also a SENCO, would act in this way.

For these reasons the panel decided that the misconduct fell significantly short of the standard of behaviour expected of a teacher and was conduct likely to bring the profession into disrepute.

In summary the panel found allegations 2(a), 2(b) and 3(f) and allegation 3(d) to amount to 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.

The panel received a 30-page bundle of mitigation documents from Mrs Bibila to take into consideration.

At this stage one of the panel members declared a matter which, with the agreement of both parties, the panel determined to consider in private, in the interests of justice

including the need to protect the confidentiality and privacy of a third party unrelated to the proceedings.

[REDACTED]

The hearing then resumed in public.

The panel heard that Mrs Bibila had no previous regulatory matter on her TRA record.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely,

- the safeguarding and wellbeing of pupils and protection of other members of the public
- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mrs Bibila, which involved pupil and staff's sensitive and personal data not being handled with appropriate regard to data protection and confidentiality measures, there was a public interest consideration in respect to the safeguarding of the wellbeing of pupils, their families, staff members at the schools and other educational and healthcare professionals who would have been involved in her SEN work whose information was put at unnecessary risk.

The panel considered that public confidence in the profession could be weakened if conduct such as that found against Mrs Bibila were not treated seriously when regulating the conduct of the profession.

The panel was of the view that a public interest consideration in declaring proper standards of conduct in the profession was also present as the unacceptable professional conduct found was outside that which would be expected.

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mrs Bibila in the profession. The panel decided that there was a public interest consideration in retaining Mrs Bibila in the profession, since she has many years' experience as a teacher and an unblemished record until these events took place. Additionally, no doubts had been cast on her abilities as an educator.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mrs Bibila.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mrs Bibila. 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. The panel found none of those behaviours to be present.

The panel went on to consider any mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

With regard to whether or not her actions were deliberate, the panel found that Mrs Bibila's actions were deliberate. In the panel's view she lost sight of the importance of the need to keep sensitive and personal data secure, particularly when working under time pressures.

There was no suggestion that the Mrs Bibila was acting under duress although the committee acknowledges the work pressures which she felt she was working under.

Mrs Bibila had a previously good record with the TRA and is of good character.

The panel took into account:

- Mrs Bibila's long unblemished career of around 20 years in teaching.
- Her acceptance that she made errors and breached both data legislation and the policies of the schools. She took full responsibility for her actions.
- Her sincere expression of regret for her actions.
- Her having taken steps to remediate her lack of knowledge by attending a, self-funded, GDPR training course in February 2022, a GDPR for School Staff course in October 2022 and internal school training in data protection in April 2024.
- Her insight into why the issues arose and her assurance that with her current knowledge that such situations could and would not arise again. The panel was of the view that there was no risk of repetition.
- The references that Mrs Bibila had provided, including from Odyssey House School colleagues, and Witness 2's evidence that she was a "highly professional colleague" with "good skills and professionalism".

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the proportionate and appropriate response was to recommend no prohibition order in all of the circumstances of this case. Recommending that the publication of adverse findings would be sufficient and would not compromise the public interest considerations present in this case.

The panel recommended to the Secretary of State that no prohibition order be imposed.

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

The panel has made a recommendation to the Secretary of State that the findings of unacceptable professional conduct and/or 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 Mrs Arlette Otshudi-Bibila ('Mrs Bibila') is in breach of the following standards:

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

The panel finds that the conduct of Mrs Bibila fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include sharing personal and/or sensitive pupil data with a third party.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In assessing that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher.

I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mrs Bibila, 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 makes the following observation:

“In the light of the panel’s findings against Mrs Bibila, which involved pupil and staff’s sensitive and personal data not being handled with appropriate regard to data protection and confidentiality measures, there was a public interest consideration in respect to the safeguarding of the wellbeing of pupils, their families, staff members at the schools and other educational and healthcare professionals who would have been involved in her SEN work whose information was put at unnecessary risk.”

A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which it records as follows in reference to Mrs Bibila:

- “Her acceptance that she made errors and breached both data legislation and the policies of the schools. She took full responsibility for her actions.”
- “Her sincere expression of regret for her actions.”
- “Her having taken steps to remediate her lack of knowledge by attending a, self-funded, GDPR training course in February 2022, a GDPR for School Staff course in October 2022 and internal school training in data protection in April 2024.”
- “Her insight into why the issues arose and her assurance that with her current knowledge that such situations could and would not arise again. The panel was of the view that there was no risk of repetition.”

In my judgement, the evidence of Mrs Bibila's insight and remorse means that there is a very low risk of the repetition of this behaviour and that the risk to the future wellbeing of pupils is minimal. 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 observes that:

“The reputation of the profession would be damaged in the eyes of the public if parents did not believe that information provided to the school in confidence would remain confidential. This would undermine trust which may have a damaging impact on child protection and safeguarding.”

I am particularly mindful of the finding in this case of a teacher sharing personal and/or sensitive pupil information with a third party and the negative impact that such a finding may have on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mrs Bibila herself. The panel records that:

“The panel decided that there was a public interest consideration in retaining Mrs Bibila in the profession, since she has many years' experience as a teacher and an unblemished record until these events took place. Additionally, no doubts had been cast on her abilities as an educator.”


The panel also comments on Mrs Bibila's good history and character, and notes having received references and witness testimony attesting to her ability and professionalism as a teacher.

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

In this case, I have placed considerable weight on the panel's comments concerning the significant degree of insight and remorse demonstrated by Mrs Bibila and that this insight

and remorse renders the prospect of a repetition of the misconduct found unlikely. I have also noted the panel's comments regarding the evidence of her good character and ability as an educator and concluded that she should be able to make a positive contribution to the teaching profession in the future.

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 read 'M. Cavey', enclosed within a horizontal oval shape.

Decision maker: Marc Cavey

Date: 4 November 2024

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