



Teaching
Regulation
Agency

Mrs Joanna Clark: Professional conduct panel outcome

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

December 2024

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

Teacher: Mrs Joanna Clark

TRA reference: 20365

Date of determination: 20 December 2024

Former employer: Blackhall Primary School, Hartlepool

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 19 to 29 November 2024, and reconvened on 19 and 20 December 2024, by way of a virtual hearing, to consider the case of Mrs Joanna Clark.

The panel members were Mr Gamel Byles (teacher panellist – in the chair), Mrs Beverley Montgomery (lay panellist) and Mr Maurice Smith (lay panellist).

The legal adviser to the panel was Mr Daniel Hales of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Charlotte Watts of Browne Jacobson LLP solicitors.

Mrs Clark was present and was represented by Mr Jonathan Storey of Cornwall Street Barristers.

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 6 June 2024, as amended on the application of the presenting officer at the beginning of the hearing.

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

1. From around March 2020 until June 2020, whilst the school was catering for key worker and/or vulnerable children on-site, she failed to attend the School and/or to provide adequate supervision or support to the on-site staff members;
2. Between around January 2019 until November 2020, she failed to keep adequate records and/or adequately inform the staffing body as to her location during working hours, and/or to be sufficiently available;
3. Between around September 2020 to November 2020, she attended Ramside Spa during working hours on one or more occasions;
4. Between around September 2020 to November 2020, she failed to remedy risks posed by an unsafe playing area;
5. She failed to ensure that DBS checks were undertaken and/or records of checks kept for one or more new staff and/or governors, and/or that DBS checks were refreshed;
6. She failed to ensure that the Single Central Record ('SCR') was accurate, including in that:
 - a) Permanent members of staff were not added;
 - b) External professionals working unsupervised with pupils were not recorded;
7. In or around 2012 she instructed individual A to add false information to the Single Central Register, prior to an audit and/or an Ofsted inspection;
8. She appointed members of staff without due process, including by:
 - a) In or around 2020, inviting individual B to interview, and/or employing individual B for the post of teaching a reception class, without individual B having applied for the role
 - b) In or around 2012, employing individual A as an office manager after they were unsuccessful in their interview for the role;

- c) In or around 2018, employing individual C as an office manager without advertisement, application or interview for the role;
 - d) Failing to ensure that records were held of jobs advertisements and/or applications and/or interviews and/or references and/or qualifications.
9. She told individual D that the governing body had declined their request to return part time after maternity leave, after the governing body had agreed to such a request;
10. On or around 20 March 2020, she told individual G that the local authority had insisted that her increased her hours to full time, when that was not the case.
11. Between around 2019 – 2020 she permitted her [REDACTED] to access the School unsupervised on one or more occasions;
12. In around 2019 she provided her [REDACTED] with an access key or fob for the School;
13. Between around March 2019 until March 2020 she deployed an office manager into the provision for 2 year olds, who was unqualified for such work;
14. From around September 2020, she staffed a reception class with a HLTA;
15. In or around September 2020, she permitted a year 2 class to include 31 children, contrary to the School Admissions Code 2021;
16. On or around 9 December 2019, she excluded SEN pupils from a whole school assembly, seeking to improve the appearance of the school to visiting members of the press;
17. In or around March – July 2020, she told parents of vulnerable children eligible to attend on-site provision, that they were not allowed to do so;
18. She demonstrated favouritism and/or discrimination, including by;
- a) Dividing or maintaining the division of the year 5 intake into a class ('5G') which included [REDACTED], in which there were no pupils with SEN or additional needs; and another class ('5I'), all or most of whom had SEN or additional needs;
 - b) Facilitating class 5G to experience trips, activities and/or classes that were more costly and/or frequent and/or of a greater quality than those experienced by other classes.

- c) Deploying the KS2 teaching assistant into class 5G for more periods than any other class, despite 5G having less need than other classes;
- d) Asking and/or instructing Individual H to include [REDACTED] in an athletics event for which he had not been selected;

19. Between around September 2014 and October 2020, she employed Individual I to undertake around 100 days work, at a total cost of around £19,792.88 without a proper procurement system;

20. Her conduct as may be found proven at 7, 9, 10 and 17 above lacked integrity and/or was dishonest.

21. Her conduct as may be found proven at 8 a-c, 9, 11, 12, 17 and/or 18 above constituted discrimination.

22. Her conduct as may be found proven at allegations 1, 4, 5, 6, 7, 11 and/or 12 above constitute a failure to take appropriate action and/or to ensure appropriate action was taken to safeguard one or more pupils.

Mrs Clark made no admission of fact prior to the hearing. Before the panel heard evidence, Mrs Clark confirmed that allegations 1, 2, 3, 5, 6 a), 8, 13, 14 and 19 were admitted. Further she confirmed that the facts of allegations 18 a) to d) were admitted, but that the stem of allegation 18, that she demonstrated favouritism and/or discrimination, was not admitted. She also confirmed that allegation 22 was admitted in relation to allegations 1, 5 and 6.

Mrs Clark made no admission of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to amend allegations

The presenting officer made an application to amend the allegations. The panel heard that the stem of the allegations, alleging unacceptable professional conduct and/or conduct that may bring the profession into disrepute, was missing from the allegations in the notice of hearing. The presenting officer submitted that this appeared to be a clerical error and that the stem of the allegations had been included in the notice of referral. The presenting officer submitted that, if the panel found any of the alleged facts proved, it must go on to consider whether those facts that are proved amount to unacceptable professional conduct, conduct that may bring the teaching profession into disrepute or

conviction, at any time, of a relevant offence in accordance with paragraph 5.109 of the 2020 Procedures.

The panel heard from Mr Storey on Mrs Clark's behalf, who did not object to the amendment sought by the presenting officer.

The panel noted that, although it was not before the panel, Mrs Clark had not disputed that she had received a notice of referral which contained the full stem of the allegations.

The panel was advised that it had the power to amend allegations if it is in the interests of justice to do so in accordance with paragraph 5.83 of the 2020 Procedures.

The panel did not consider that the proposed amendments changed the nature and scope of the allegations in that the allegations would remain the same, but the allegations should be updated so that it would be clear to Mrs Clark that the behaviour in the allegations was alleged to be unacceptable professional conduct and/or conduct that may bring the profession into disrepute. 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 the 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]*.

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

Application to admit additional documents

The panel considered a preliminary application from Mr Storey on behalf of Mrs Clark for the admission of additional documents.

Mrs Clark's documents were:

1. her witness statement; and
2. additional character statements contained in documents with the following file names:
 - a. Further character statements and references 12.11.24;
 - b. Individual S statement;
 - c. Individual T statement2; and
 - d. Clark further character statements.

The documents subject to the application had not been served in accordance with the requirements of paragraph 5.37 of the 2020 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 5.34 of the 2020 Procedures.

The panel heard representations from the presenting officer who did not object to Mrs Clark's application.

The panel considered that the additional documents were relevant and that the unfairness to Mrs Clark in refusing the application would outweigh the unfairness to the TRA of admitting documents which had been received late. In particular there would be substantial prejudice to Mrs Clark if her witness statement was not admitted.

Accordingly, Mrs Clark's witness statement was added to the bundle as pages 1001 to 1137 and the character statements were added to the bundle as pages 1138 to 1148.

Application for part of the hearing to be heard in private

The panel considered an application from Mrs Clark that part of the hearing, [REDACTED], should be heard in private.

The panel heard submissions from the presenting officer on the application before reaching its decision. The presenting officer did not have an objection to the application.

The panel granted the application. The panel considered it was not contrary to the public interest for the part of the hearing, which was the subject of the application, to be heard in private.

The panel considered that the areas covered in the application legitimately related to aspects of Mrs Clark's private life and there was no contrary public interest in those areas being discussed in public. The hearing was still being held in public and these were discrete and limited areas which would not undermine the public's ability to otherwise understand the case. The panel therefore granted the application.

Hearsay evidence

Whilst it did not form the basis of an application to admit, there was evidence before the panel within the bundle which amounted to hearsay evidence. In particular this included evidence from witnesses at the hearing who reported things they had been told by others, and Witness A's investigation notes of interviews with individuals who did not give evidence at the hearing.

The panel heard legal advice on hearsay evidence, including that the panel may not be able to test the reliability of hearsay evidence in the absence of the witness and that care should be taken where hearsay evidence is the sole and decisive evidence in relation to

an allegation. The panel had regard to this when considering the evidence and gave appropriate weight to hearsay evidence.

Summary of evidence

Documents

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

- Section 1: Anonymised persons list – page 13
- Section 2: Notice of hearing – pages 15 to 23
- Section 3: TRA witness statements – pages 25 to 211
- Section 4: TRA documents – pages 213 to 738
- Section 5: Teacher documents – pages 741 to 998

In addition, the panel agreed to accept the following:

- Mrs Clark's witness statement – pages 1001 to 1137
- Additional character statements - pages 1138 to 1148

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

Witnesses

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

- Witness A, [REDACTED]
- Witness B, [REDACTED]
- Witness C, [REDACTED]
- Witness D, [REDACTED]
- Witness E, [REDACTED]
- Witness F, [REDACTED]
- Witness G, [REDACTED]
- Witness H, [REDACTED]

The panel heard oral evidence from the following witnesses called by the teacher's representative:

- Witness I, [REDACTED]
- Witness J, [REDACTED]
- Witness K, [REDACTED]

Mrs Clark gave oral evidence at the hearing.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Background

Mrs Clark was headteacher of Blackhall Primary School ('the School') from 20 April 2009, until 31 August 2021.

During Mrs Clark's tenure as headteacher, the School was inspected by Ofsted three times, in October 2010, December 2012 and November 2017. Following the inspection in October 2010 the School received an overall rating of Satisfactory. This improved to 'Good' in the inspection in December 2012 and the short inspection in November 2017 confirmed that the school continued to be good. Each inspection report included praise for Mrs Clark's leadership at the school.

In 2012 Mrs Clark reduced her working hours from full time to three days per week. [REDACTED], Witness C, took on additional duties as [REDACTED] for the remaining two days each week. Mrs Clark increased her hours to four days per week in February 2018 and Witness C's [REDACTED] duties were reduced by a day.

One of the School's year groups was particularly large and had an unusually high number of children with Special Educational Needs (SEN) or challenging behaviour. In Year 2, this year group had previously been informally split into two classes with a small group of children at times being taught separately in a third smaller group. In Year 3, this year group was formally split into two separate classes. The way in which the children were split changed slightly each year and by Years 4 and 5 one class had more children with SEN or who exhibited challenging behaviour than the other.

On or around 17 March 2020, Mrs Clark returned to full time hours to manage the school during the Covid-19 Pandemic. Mrs Clark believed that she needed to be full time during the Covid-19 emergency as she needed to be in school to make decisions. On the

understanding that Mrs Clark had already been working full time since 9 March 2020, in response to the Covid-19 emergency, the Chair of Governors agreed that Mrs Clark would be paid full time with effect from 9 March 2020. On or around the following day, 18 March 2020, Mrs Clark informed Witness C of the decision and that she (Witness C) would return to [REDACTED] duties.

During the first lockdown, between March 2020 to May 2020, there were very few pupils in the School. These were mainly the children of key workers and two children who were known to social services. Teaching staff were not required to attend the school and instead were working from home while teaching their classes online. During this time the School was staffed by a member of [REDACTED], Individual P, [REDACTED], Witness B, [REDACTED] at the School, teaching assistants and lunchtime supervisors.

The School reopened after the half term holiday in May 2020. To reduce the risk of Covid-19 infection a 'bubble' system was put in place so that each child and teacher would only come into contact with a small group of other children and adults. A rota was put in place to ensure that a member of the Senior Leadership Team was present at the School each day of the week. Under the rota, Mrs Clark attended the School two days each week, Witness C attended the School two days each week and another member of the Senior Leadership Team attended the School on the remaining day each week.

Over the course of 2020, [REDACTED]. As a consequence, [REDACTED], became withdrawn and avoided certain members of staff whom she considered to be negative or unpleasant towards her.

In November 2020, Durham County Council ('the Local Authority') received an anonymous whistleblowing complaint raising allegations against Mrs Clark. An initial fact-finding meeting was held with Mrs Clark on 9 November 2020 and on 10 November 2020 the Local Authority appointed Witness A, [REDACTED] to carry out a disciplinary investigation into the allegations against Mrs Clark. On the same date Mrs Clark began a period of sickness absence.

Between November 2020 and July 2021, Witness A conducted interviews with members of staff, governors and Mrs Clark. Mrs Clark attended 10 separate interviews between 12 February 2021 and 8 June 2021, she was accompanied by a union representative and, as a reasonable adjustment, all questions were shared with Mrs Clark at least 72 hours before the interview so that she could prepare. The notes of the interviews with Mrs Clark were included in the bundle. The notes of the interviews with other members of staff, and other records from Witness A's investigation were also included in the bundle. Where the TRA called members of staff as witnesses, the notes of their interviews with Witness A were exhibited to their witness statements.

On 19 April 2021, Mrs Clark declared that she was fit for work and was suspended pending the conclusion of Witness A's investigation. Mrs Clark commenced a further period of sickness absence on 15 June 2021.

Mrs Clark resigned from her post as headteacher with effect from 31 August 2021, before the conclusion of the disciplinary process.

A referral was made to the TRA by a referral form dated 27 October 2021.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proved, for these reasons:

- 1. From around March 2020 until June 2020, whilst the school was catering for key worker and/or vulnerable children on-site, you failed to attend the School and/or to provide adequate supervision or support to the on-site staff members;**

The allegation was admitted by Mrs Clark. The panel considered the oral evidence and written statement of Mrs Clark in which she accepted that she did not attend school during this period, which she said comprised two weeks of the spring term, two weeks over the Easter holidays and around five weeks of the summer term up to the May half term holiday.

Mrs Clark stated in her witness statement that she believed that she phoned the School almost daily, but she accepted that, while she believed at the time that she had provided sufficient supervision and support to the onsite staff, in hindsight she should have been present at the School.

The panel considered the oral evidence and written statement of Witness D, [REDACTED] at the School, who stated that between March 2020 and June 2020, the only member of the Senior Leadership Team who was present in the School was [REDACTED], Individual P.

Individual P did not give evidence before the panel. The panel considered the notes from an investigation meeting between Witness A and Individual P on 16 November 2020. The notes recorded that Individual P stated that she, "*...felt adrift, the head teacher would phone but she would often speak to the secretary.*" Individual P went on to describe how hard she worked over that period and that she felt that Mrs Clark did not have an understanding of how hard it was for her. When asked by Witness A whether she recalled regular conversations with Mrs Clark between March 2020 to July 2020 about Covid Risk assessments, Individual P confirmed she did, she thought possibly weekly, some communication was by email and some was by phone calls. As Individual P did not

give evidence at the hearing, her evidence could not be tested. Therefore, the panel gave appropriate weight to the evidence in the note of Witness A's interview with Individual P.

The panel also considered the oral evidence and written statement of Witness B. The panel heard that Witness B was physically in the School between March 2020 and July 2020 and that Mrs Clark only called into the School two to three times throughout the first lockdown. Witness B went on to explain that when Mrs Clark called into the School it was to ask for learning materials for her own [REDACTED] or for magazines to be sent to her home address.

On behalf of Mrs Clark, her representative submitted that as it is alleged that Mrs Clark 'failed' to attend the School and 'failed' to provide adequate supervision or support to the on-site staff members, this implies that there was a duty to do so. The teacher's representative submitted that there was no evidence of any such duty.

The panel had regard to the fact that this allegation related to the unprecedented period of the emerging Covid-19 pandemic and the first lockdown.

The panel found that, by her own admission and on examination of the evidence before it, Mrs Clark did not attend the School at any time from the start of the first lockdown in March 2020 until after the end of the May 2020 half term holiday. The panel found that after half term in May 2020, Mrs Clark was present in the School two days a week on a rota basis with Witness C and another member of the Senior Leadership Team. Mrs Clark's evidence was that she phoned the School almost daily over the first lockdown. However, the evidence of the TRA's witnesses was that she called the school less frequently than this. The panel found that the staff in School did not feel adequately supported over the period of the first lockdown.

The panel was satisfied that, during this period of time, the School was catering for the children of key workers and/or vulnerable children on site, which necessitated staff being on site.

The panel considered the teacher's representative's submissions that there was no duty for Mrs Clark to attend the School or to provide adequate supervision or support to the on-site staff members. The panel drew on its own knowledge and experience of the teaching profession and considered the expectations of a headteacher during this unprecedented time. While there was no expectation for headteachers to be physically in school every day during the first lockdown, there was an expectation that headteachers would be in school on a regular basis over that period, and that when they were not physically in school that they would contact the staff in school frequently by phone.

The panel noted that Mrs Clark had increased her hours to five days a week in March 2020 because she felt she needed to be in the School to make decisions during the Covid-19 pandemic. This indicated that Mrs Clark herself understood at the time that she

needed to be in the School. The panel was mindful that the allegation relates to a period of great stress and uncertainty for all those working in education. Mrs Clark did not meet the expectations of her role over the period in relation to attendance at school or providing adequate supervision or support to the staff in school. Therefore, the panel was satisfied that, on the balance of probabilities, Mrs Clark did fail to attend school or to provide adequate supervision or support to the on-site staff over this time period.

Accordingly, the panel found allegation 1 proven.

2. Between around January 2019 until November 2020, you failed to keep adequate records and/or adequately inform the staffing body as to your location during working hours, and/or to be sufficiently available;

The allegation was admitted by Mrs Clark. The panel considered Mrs Clark's witness statement in which she accepted that systems for tracking her location could have been better and that in hindsight she realised she should have been much more open and transparent.

Further Mrs Clark accepted that in September 2020 and October 2020, she was not sufficiently available [REDACTED]. She stated that from September 2020 she [REDACTED] actively avoided a number of the staff in the School, including Witness C.

The panel considered two records of Mrs Clark's whereabouts. One recorded her whereabouts between January 2019 and April 2019 (2019 Record) and the other from September 2020 to November 2020 (2020 Record). The records were originally prepared by Witness C. They were provided to Witness A during her investigation, and she added summaries to both and colour coding to the 2020 Record.

The 2019 Record showed that Witness C was sufficiently informed of Mrs Clark's whereabouts to be able to record it for a period of 12 weeks. The 2020 Record showed that there was sufficient information about Mrs Clark's whereabouts for Witness C to record it between Monday and Thursday over a period of 10 weeks. However, the records show that Mrs Clark was not in school on any Friday during that period and that no reason was given for Mrs Clark's absence except on one occasion, when Witness C asked and was told by Mrs Clark that she was working from home.

The panel considered the oral evidence and written submissions of Witness C, who stated that she made records of Mrs Clark's attendance and school activity between January 2019 to September 2020. She made notes of Mrs Clark's attendance in a notebook which she later transferred to an electronic document. Witness C said she did not always maintain this record consistently, but from the start of the new academic year in September 2020, she updated the record daily.

Witness C gave evidence that Mrs Clark was always hard to get hold of, but over the years "*it became worse*", and by the time term started in September 2020, Witness C's

view was that Mrs Clark did not carry out a full-time role, despite being employed to do so.

The panel considered the oral evidence and written statement of Witness B, who stated that Mrs Clark was very rarely reachable. The panel also considered the oral evidence and written statement of Witness E, [REDACTED], who stated that Mrs Clark would not be her first point of call if she wanted to contact anyone, and that she could not contact her.

Mrs Clark asserted in her evidence that she worked from home each Friday in the period September 2020 to October 2020 and now accepted that this was not the right course of action. However, she said that she arranged this with Witness C.

The panel did not consider that there was an expectation of Mrs Clark to keep a granular diary, or to make the entire staffing body aware of her whereabouts at all times. However, there *was* an expectation that Mrs Clark would keep adequate records of her whereabouts or inform the senior leadership team, or at the very least the [REDACTED], of her whereabouts, so that they would know who was present in school from the Senior Leadership Team (from a leadership, decision making and safeguarding perspective) and whether or how they could contact her. The panel had regard to the fact that Mrs Clark was working part time in January 2019 to April 2019 and that she increased her hours to full time in March 2020 because she recognised that she “*needed to be in school to make decisions*”.

The panel concluded that at the beginning of the period between January 2019 and April 2019, there *were* either sufficient records, or staff *were* adequately informed of Mrs Clark’s whereabouts, as Witness C was able to prepare the 2019 Report. However, the panel found that in the Autumn term of 2020, from the week commencing 1 September 2020 to the week commencing 2 November 2020 Mrs Clark was not available on Fridays, there were no records of her whereabouts, and she did not adequately inform staff of her whereabouts.

Further, on the balance of the evidence before it, the panel found that over a period from January 2019 to November 2020 there was a gradual deterioration in Mrs Clark’s availability during her working hours. Both the 2019 and 2020 Reports showed that Mrs Clark was frequently out of the School, either in meetings, visiting other Schools or at home. In the panel’s experience of the education sector, this was an unusual level of time spent outside the School for a Headteacher. In the context of the Covid-19 pandemic and the reopening of schools after the May 2020 half term the panel considered that there was a greater need for headteachers to be available to their staff and on site in school. The panel found that Mrs Clark was not generally available to staff over the phone, and did not return calls so that staff eventually stopped calling her and contacted the [REDACTED] instead. Accordingly, the panel found that Mrs Clark was not sufficiently available.

Accordingly, the panel found allegation 2 proven.

3. Between around September 2020 to November 2020, you attended Ramside Spa during working hours on one or more occasions;

The panel considered a text message from a [REDACTED] to Individual Q, [REDACTED], which stated that the sender had seen Mrs Clark at Ramside Spa that morning. It stated that Mrs Clark was wearing a membership wristband and was accompanied by [REDACTED]. In her witness statement Witness C stated that the text message had been shown to her by Individual Q and that it was received on 16 October 2020.

The allegation was admitted by Mrs Clark. The panel considered Mrs Clark's written statement and oral evidence in which Mrs Clark accepted that she had attended Ramside Spa during working hours on 16 October 2020. She said that she swam for 20 minutes and that she deeply regretted the decision. [REDACTED]. However, Mrs Clark denied that she had attended Ramside Spa on any other occasion during working hours.

The panel considered a note of an interview conducted with Mrs Clark by Witness A on 15 April 2021 as part of Witness A's investigation. In the note, Mrs Clark stated that she attended the Spa alone and she confirmed that she had not visited Ramside Spa on any other date during work time. Following the meeting, while reviewing the record for accuracy Mrs Clark made amendments in red which confirmed that, on reflection her [REDACTED] had accompanied her to the Spa and that there were two other occasions when she visited the Spa during work time. Mrs Clark's amendment to the meeting record stated that she went to have a swim, clear her head and then go back to her work.

Mrs Clark accepted that she had added these comments to the meeting record after the meeting. However, Mrs Clark's evidence to the panel was that she had only attended the Spa once during work time and that her comments on the meeting record were a miscommunication. She said she had meant to confirm that she had attended the Spa on two other occasions after school or on the weekend, [REDACTED].

The panel considered Mrs Clark's amendments in red in the meeting record closely and was satisfied that Mrs Clark was referring to visits during working hours when she referred to two other occasions. The panel did not accept Mrs Clark's explanation in the hearing that this was a miscommunication. The meaning of her amendments was clear. The panel noted that Mrs Clark's amendments in red in 2021 were made much closer to the time to which the allegation relates and that she had time to reflect on the question when she wrote them.

On the balance of the evidence before it, the panel found that Mrs Clark attended Ramside Spa during school hours on 16 October 2020 and on at least two other occasions.

Accordingly, the panel found allegation 3 proven.

4. Between around September 2020 to November 2020, you failed to remedy risks posed by an unsafe playing area;

The panel considered the oral evidence and written statement of Witness A, who confirmed that she had visited the School and inspected the play area in question during her investigation. Witness A said that the play area was unsafe because there was a broken, low fence that children could cross to access the car park from the play area. The car park gate was kept open so there was a risk that children could then leave School premises through the car park gates. She also said there was a risk because there was an unsecured visitor gate which led to a path running parallel to the school buildings. Witness A stated that there was no lock, security or intercom system on the gate and that anyone could open it and walk into the play area, and that any child could also leave the premises via the gate.

The panel considered the oral evidence and written statements of Witness C and Witness D. Both of whom stated that they raised safety concerns about the play area with Mrs Clark.

Witness C stated that she raised concerns with Mrs Clark on several occasions in regard to the unlocked gate open to the public and the broken fence into the car park. She said that she also believed that Witness D, who was [REDACTED], had raised concerns with Mrs Clark. Witness C also explained that two children climbed over the fence. She said that on one occasion on 21 September 2020, staff raised concerns with her that a child had climbed over the fence in the carpark. Witness C told the panel that she discussed this with Mrs Clark on the following day. Witness C told the panel that simply fixing the fence would not have been a solution as the play area was also unsafe due to the low fence which children could climb over.

Witness D stated that during the Covid-19 pandemic the front yard was being used as a play area, which had not previously been the case other than for after school club when parents were collecting children. She said that the fence between the play area and the carpark was broken, and the two gates were regularly left open. She said that she had to check and close them before she let the children into the play area. She said she raised concerns about the safety of the play area with Mrs Clark on a weekly basis. Witness D gave her view that there were alternative options such as putting cones out in the larger yard so classes could share it without mixing. Witness D also described the incident on 21 September 2020 when a child climbed over the fence into the carpark because the fence was not high enough. She said she logged this incident on the School's safeguarding system, CPOMS, and raised it with Witness C and Mrs Clark.

Witness C and Witness D both gave evidence that when they raised issues about the safety of the play area with Mrs Clark, she said that there was no other option due to the

need to keep the children in bubbles and that she said that she did not want to stop using the play area as she wanted Year 5 to have *“the full run of the yard”*. Witness D explained that she understood that Mrs Clark’s authorisation was needed to arrange for the fence to be repaired. Neither Witness C nor Witness D recalled signs on the gates warning that they should be kept shut.

The panel considered the oral evidence and written statement of Witness H, [REDACTED] at the School, who temporarily took over headship of the School after Mrs Clark’s departure. She said that she raised the play area next to the staff carpark as a safeguarding issue immediately on arriving at the School, and stopped children from using it as a play area. She gave evidence that the pupils could easily open the gate and get out, visitor access was across the play area and that children could easily climb over the timber fence between the play area and the carpark. She told the panel that her reaction on seeing what was happening in the play area was *“this must stop now”*. Witness H could not recall if the fence was fixed while she was at the School. She addressed the safeguarding issues by removing children from the play area and moving them to the larger yard.

The panel considered the oral evidence and written statement of Mrs Clark. Mrs Clark accepted that the play area was not ideal, but said that she did not know it was unsafe. She said that no issues had been raised about the safety of the yard during Ofsted inspections or Local Authority Health and Safety inspections. She said she would have taken immediate action to address safety issues if she had known. Mrs Clark explained that the yard behind the School was used as a play area for the Year 2 bubble in Autumn term 2020 as a short-term measure to keep bubbles separate, and that procedures were put in place to ensure that safety issues were addressed. Mrs Clark accepted that the two gates in the play area could not be locked as they were fire escapes. However, she said this risk was addressed with clear signs saying that the gates must be kept closed and an established procedure for a member of staff to check that the gates were closed before pupils were allowed into the play area. Mrs Clark said that no one raised concerns with her about the fence being unsafe. She said that there were established procedures at the School for staff or the groundsman to report maintenance and repair issues to the school office, which had discretion to address issues such as broken fences without her approval. Mrs Clark said this was the normal procedure and did not require her involvement. Mrs Clark did recall discussing the play area with the Witness D, her recollection was that Witness D’s objections to using the yard were because it was small and had no access to the School field, rather than because of any safety issues or issues with the fence.

Having considered all the evidence before it, on the balance of probabilities, the panel found that the play area was unsafe because there was a low and broken fence between the play area and the staff carpark. Children could get over the fence into the staff carpark and then leave the School premises.

The panel heard conflicting evidence about whether and how often this was raised with Mrs Clark. The panel found that on or about 21 September 2020 a child did escape over the fence into the staff carpark. This incident was logged on CPOMS and raised with Mrs Clark by Witness C and Witness D the following day. From this point the panel did not believe that Mrs Clark could have reasonably considered that the play area was safe and should have either taken steps to address the issues with the fence or should have ensured that the play area was no longer used. The panel did not accept that the play area was safe because previous Ofsted and Local Authority Health & Safety Inspections had not raised any concerns. The panel found that the yard in question had not been used as a play area prior to the Covid-19 Pandemic, except for after school club, so Ofsted and Health & Safety inspections would have been unlikely to have seen it in use as a play area and would have been unlikely to raise safety concerns about it. As soon as Witness H joined the School she identified safety risks arising from use of the yard and she ensured that it was not used as a play area going forwards. Notwithstanding this, it should have been clear after the incident on 21 September 2020 that the play area was unsafe.

The panel found that Mrs Clark failed to take any steps to address the fact that the play area was unsafe, in particular from around 21 September 2020 when it should have become clear that the play area was unsafe following an adverse safeguarding event, until 6 November 2020, when she left the School.

Accordingly, the panel found allegation 4 proven.

5. You failed to ensure that DBS checks were undertaken and/or records of checks kept of one or more new staff and/or governors, and/or that DBS checks were refreshed;

Mrs Clark admitted this allegation. The panel considered Mrs Clark's witness statement in which she accepted that she was ultimately responsible for ensuring that DBS checks were undertaken. Mrs Clark stated that she regularly checked the School's Single Central Record (SCR), which she said was kept in a lever arch file and which was complete and up to date when she reviewed it, including DBS details. She stated that at the time she believed that the School's procedures were being followed regarding DBS checks and she had instructed the School's office staff, Witness B and Witness F, the [REDACTED] at the School, to ensure that DBS checks were carried out for all new staff, that staff files were created and updated, and that DBS checks were refreshed for current staff. However, she accepted that as [REDACTED] she was ultimately responsible for ensuring that this was completed.

The panel considered a Desktop Review of the SCR carried out by Witness A on 10 May 2021 and the results of a spot check of 14 of the School's personnel files carried out by Witness A on 17 May 2021. The Desktop Review of the SCR showed that DBS records were missing in respect of five members of staff, three governors and all regularly

employed external staff such as the school counsellor, speech and language therapist and agency supply teaching staff. The Desktop Review noted that the teachers had worked with pupils without a DBS and that the external staff worked directly with pupils, either one to one, or in small groups without a DBS.

The results of Witness A's check of personnel files recorded that of the fourteen files checked, DBS checks were entirely missing from two files, delayed by eight months on one file, and on another file a DBS number from a former employer had been recorded. In her witness statement Mrs Clark said that she was "*horrified*" by the results of Witness A's audit.

The panel considered the oral evidence and written statement of Witness A, who confirmed that she reviewed the School's SCR which was an electronic excel document consisting of one tab, she also confirmed that she carried out the review of staff files, which were kept as paper files. She explained that she highlighted in her reviews where DBS checks were missing. Witness A said that she had been told by Witness F that she [Witness F] had not been asked to instigate these DBS checks. On these bases, Witness A confirmed that she did not believe that the missing DBS checks had been carried out and that these staff members had worked with pupils without a DBS check in place.

Witness A confirmed that she did not see a hard copy of the SCR and told the panel that she asked if there was a hard copy but was told there was not one, she could not recall who told her this. She told the panel that in her view, the electronic SCR should be kept up to date, and if there was a hard copy then she thought this would have been printed from the electronic SCR.

The panel considered the oral evidence and written statement of Witness F, who stated that there were two versions of the SCR, a hard copy, kept in a safe and an electronic version on an excel spreadsheet. Witness F stated that before 2012 the [REDACTED] had kept DBS numbers on a spreadsheet. Since then, she [Witness F] had been updating the SCR and at some point she received training on what should be included and how it should look. She could not recall when this was or who delivered the training. The trainer sent Witness F an excel spreadsheet with the correct format for the SCR and this was used as the basis of the electronic SCR which had been kept since then. Witness F said that there was no procedure in place for ensuring DBS checks were carried out when new staff started at the School. She said she only did DBS checks when Mrs Clark asked her to, and at times Mrs Clark would ask Witness B to do the DBS checks for new starters.

The panel also considered the oral evidence and written statement of Witness B who told the panel that after Mrs Clark left the School, she and the new headteacher had redone the SCR and had to redo DBS checks for all staff as some of the DBS numbers on the SCR were wrong.

The panel considered the evidence before it. The panel was satisfied on the balance of probabilities that Witness A's witness evidence, her Desktop Review of the SCR, and her review of personnel files, provided an accurate account of the School's SCR and personnel files in relation to the records of DBS checks. The panel accepted Witness A's evidence that she reviewed the SCR. Witness A's findings regarding DBS records on the SCR were consistent with her findings from her review of the School's personnel files.

On the balance of the evidence before it, the panel found that DBS checks had not been carried out for some staff and governors and that records of DBS checks were not kept. This may have been the day-to-day responsibility of the School's office staff, although there was evidence before the panel that Witness F and Witness B did not understand this to be the case, but Mrs Clark accepted, and the panel agreed, that as headteacher she was responsible for ensuring that DBS checks were carried out at the start of employment and that records of those checks were kept.

Accordingly, the panel found allegation 5 proven.

6. You failed to ensure that the Single Central Record ('SCR') was accurate, including in that:

a) Permanent members of staff were not added;

b) External professionals working unsupervised with pupils were not recorded;

The panel's considerations and findings regarding the SCR as set out in relation to allegation 5 above, are also relevant to this allegation. The considerations and findings set out below are those which are specific to allegation 6.

Mrs Clark admitted allegation 6a) but denied allegation 6b). The panel considered Mrs Clark's witness statement in which she said that at the time she believed that all relevant individuals, including permanent staff and external professions who worked with pupils were added correctly to the SCR. She believed that processes were being followed to ensure this. Mrs Clark explained that she reviewed the SCR regularly and that all external staff were recorded on a separate sheet which was kept up to date. She said that the SCR had also been reviewed by the Education Development Partner at the Local Authority and Ofsted who had confirmed that it complied with all guidelines, and it was also audited yearly by an external HR professional. However, Mrs Clark stated that her termly reviews of the SCR and the annual external audit did not take place during the period of the Covid-19 pandemic.

Mrs Clark suggested that the page recording external staff may have been omitted from the version of the SCR shown to Witness A, or that the SCR may not have been kept up to date in relation to external professionals over the period between her leaving the School in November 2020 and Witness A's review of the SCR in May 2021.

The panel considered Witness A's Desktop Review of the SCR which showed that five members of staff and three governors were not recorded on the SCR and that no regularly employed external staff, such as the school counsellor, speech and language therapist and agency supply teaching staff, were recorded on the SCR. The Desktop Review highlighted that these external staff members would have worked directly with pupils either on a one-to-one basis or in small groups.

Both Witness F and Witness A confirmed that from time-to-time Mrs Clark would review a hard copy SCR which was kept in a safe. However, as described in more detail in relation to allegation 5 above, Witness F also said that an external trainer had explained what should be included in the central record and provided an electronic file with the appropriate layout of the SCR. Witness F also said that she was not aware of Mrs Clark ever reviewing the electronic SCR, and this was consistent with Mrs Clark's account that she reviewed a hard copy SCR.

As set out in the panel's consideration of allegation 5 above, the panel accepted Witness A's evidence that she reviewed the SCR and that the Desktop Review of the SCR was an accurate reflection of the SCR when she reviewed it. The panel had no reason to doubt Witness A's evidence, and this was consistent with Witness F's evidence that the SCR was an electronic document based on a file which had been sent to her by an external trainer. From the evidence before it, the panel found that the SCR was an electronic excel document. When Witness A reviewed this, a number of members of staff and governors were not recorded on the SCR and none of the external staff working with pupils were recorded on the SCR.

The panel accepted that Mrs Clark had reviewed a hard copy SCR, but found that this was a printed copy of the electronic SCR. The panel noted that a key principle of the SCR was that there should only be a single record to avoid the risk of key safeguarding information falling between different documents. To the extent that there were different copies of the SCR, this in itself was a failure and did not excuse the missing details on the SCR. Mrs Clark believed that there were adequate processes to ensure that the SCR was kept up to date and permanent and external staff were recorded on the SCR. However, as is the case with ensuring DBS checks are carried out, the responsibility of ensuring such processes were properly followed and ensuring that the SCR was kept fully up to date was Mrs Clark's as the headteacher.

Accordingly, the panel found allegation 6 proven.

7. In or around 2012 you instructed individual A to add false information to the Single Central Register, prior to an audit and/or an Ofsted inspection;

The panel considered the oral evidence and witness statement of Witness F who stated that she showed Mrs Clark the SCR before an audit or Ofsted inspection and pointed out that the DBS records were missing for some people. Witness F said that Mrs Clark told

her to fill in the blanks for the time being until they got the missing DBS checks sorted. Witness F stated that she had not seen a DBS certificate for some staff members and there were quite a few gaps in the DBS records on the SCR at the time. She said that Mrs Clark told her to *“make it up – so if anyone checked, it looked OK...”* She said this included DBS numbers, issue dates and signatures. Witness F initially said that Witness B had witnessed the conversation with Mrs Clark, but when questioned on this during her oral evidence, she said that she had told Witness B about her conversation with Mrs Clark when she went back into the office.

Witness F confirmed during the hearing that this conversation was before an Ofsted inspection. However, she was unsure when this happened. In her witness statement she said she thought it might have been in 2012, but when cross-examined, said that she could not remember. Witness F told the panel that [REDACTED] she struggled to remember anything.

The panel considered the oral evidence and written statement of Witness B who said that she did not witness the conversation between Mrs Clark and Witness F, but she did recall Witness F coming into the office and telling her that Mrs Clark had told her to add false information to the SCR. It was not clear from Witness B’s witness statement when she started working in the office as an administrator. Her witness statement referred to both 2008 and 2014. During the hearing, Witness B was unsure when it was, but confirmed that it was after Mrs Clark became headteacher.

The panel considered the oral evidence and written statement of Mrs Clark. Mrs Clark said that this allegation was false. She believed that everyone working in the school had a DBS check. Mrs Clark recalled checking the SCR with Witness F when she returned from maternity leave in April 2012. There were a small number of names without DBS numbers. Mrs Clark said she was horrified and told Witness F to ask for copies of the missing certificates to add the missing DBS numbers into the SCR. She said she assumed Witness F would ask staff for their DBS certificates to get the missing details and add them into the SCR and she found it hard to understand why Witness F would make the numbers up.

It was suggested to the panel that Witness F had either misunderstood or misremembered the conversation with Mrs Clark, or she had decided to enter false details herself, because she did not have the missing details, and blamed Mrs Clark for it.

The panel considered all the evidence. The panel had regard to the fact that the allegation related to an unwitnessed conversation between Mrs Clark and Witness F over ten years ago. The panel was mindful that memories can fade over such a long period of time and there was no documentary evidence to support the allegation.

Although she was sure that Mrs Clark had told her to add false details to the SCR, Witness F was unable to remember when this took place and, when asked for other

details during cross-examination and by the panel, she said she could not remember in response to a number of questions. This is entirely understandable due to the passage of time since the date of the alleged conversation. The panel found that Witness B, did not start working in the School office until 2014 and so could not have been told about the alleged conversation in or around 2012 in the way described by Witness B. The panel was mindful that the burden of proof was on the TRA to prove the allegation.

The panel found that on the balance of probabilities there was insufficient evidence to uphold this allegation. The panel found that there was a conversation between Mrs Clark and Witness F about gaps in the SCR, but there was insufficient evidence to uphold the allegation that Mrs Clark told Witness F to add false information to the SCR, or even to conclude when this conversation took place.

Accordingly, the panel found allegation 7 not proven.

8. You appointed members of staff without due process, including by;

- a) In or around 2020, inviting individual B to interview, and/or employing individual B for the post of [REDACTED] class, without individual B having applied for the role**
- b) In or around 2012, employing individual A as an [REDACTED] after they were unsuccessful in their interview for the role;**
- c) In or around 2018, employing individual C as an [REDACTED] without advertisement, application or interview for the role;**
- d) Failing to ensure that records were held of jobs advertisements and/or applications and/or interviews and/or references and/or qualifications.**

Each sub-allegation of allegation 8 was admitted by Mrs Clark. The panel considered the oral evidence and witness statement of Mrs Clark. Mrs Clark's witness statement simply admitted allegation 8a without further explanation. In relation to allegation 8b, Mrs Clark said that she believed at the time that she was following the correct processes. She explained that Witness F was temporarily engaged as [REDACTED] after the previous [REDACTED] retired. The position was advertised twice. Witness F was not successful in those recruitment processes but remained in her role as no suitable alternative could be found. After Witness F had been in the [REDACTED] role for two years, Mrs Clark said that she received advice from the Local Authority finance officer that Witness F now had employee rights, and the role was rightfully hers. She said she received HR advice that an internal advertisement for the role should be placed in the School.

In relation to allegation 8c, Mrs Clark explained that Witness B had been working in the office as [REDACTED] prior to her appointment as [REDACTED]. Mrs Clark had had concerns about the way Witness F was handling parts of her role, and she expanded

Witness B's role to encompass some of the [REDACTED] tasks. She said this was done on the recommendation of the Local Authority auditor to mitigate financial risks in the School office. Mrs Clark said this decision was made jointly with Witness C and was discussed with the School governors at several committee meetings. Witness B's pay was therefore increased to reflect her additional responsibilities. Mrs Clark said that this change led to confusion about Witness B's role, as she was now paid the same as Witness F, which was not resolved before she [Mrs Clark] left the school and she thought this was why Witness B was listed as [REDACTED] on the School website.

In relation to allegation 8d, Mrs Clark said that she thought that records of job advertisements, application, interviews, references and qualifications were in place. She explained that staff files had been reviewed in the most recent Ofsted inspection (in 2017) and were found to be compliant. Mrs Clark accepted that procedures were not robust and that she should have checked the file for each new staff appointment, but she said that she had trusted the office staff to ensure staff files were properly completed and that, [REDACTED], Witness C was also responsible for recruitment systems and records.

The panel considered the review of a selection of staff files carried out by Witness A. The review showed that job advertisements and/or application forms could not be found in 11 of the 14 files reviewed and there was no evidence of an interview having taken place and/or no interview notes on file and/or no references on file for 12 of the 14 files reviewed. Documents were missing in relation to roles which commenced as far back as 2009 up to roles which commenced in September 2020.

The panel considered the oral evidence and written statement of Witness D. Witness D said that both reception class teachers went off on maternity leave at the same time in 2020. She said she was on the panel for the interviews for cover teachers. Witness D said that on the morning of the interviews Mrs Clark told Witness D that she had asked [REDACTED], Individual B, to interview for the role. Witness D said she wasn't aware the [REDACTED] would be interviewing until that day and confirmed her understanding that the [REDACTED] had not applied for the role. Witness D's understanding was that the [REDACTED] had been approached by Mrs Clark and asked to come to an interview.

The panel considered the oral evidence and witness statement of Witness F, who stated that she had initially worked as an administrator but had to step into the [REDACTED] role when the previous [REDACTED] became ill. Witness F explained that she applied for the [REDACTED] role when it was advertised, but her interview was not successful, and she did not get the role. She said that Mrs Clark told the other applicants that there were no suitable candidates for the role. Despite being unsuccessful in her interview, she said she was later offered the post by Mrs Clark. She said that she was not interviewed again for the role, but she had to put up an internal notice for seven days to advertise the role again before being formally appointed. Witness F could not recall how long the period was between the interviews and being formally appointed in the role.

The panel considered the oral evidence and written statement of Witness B, who stated that in August 2018 she was working in the office as an [REDACTED] and had been interviewing for other roles. She explained that Mrs Clark approached her, said that she did not want her [Witness B] to leave and promoted her to [REDACTED].

The panel considered the oral evidence and witness statement of Witness H, who said that when she joined the School, there were a lot of issues around staffing, personnel and contracts which had taken up a significant amount of her time. She said she was worried about safer recruitment practices as she had found that there was little consistency in relation to shortlisting, references and job descriptions in relation to staff appointments.

The panel considered all the evidence before it. On balance the panel found that Individual B had not applied for the role of [REDACTED], but notwithstanding this, in 2020 Mrs Clark had invited her to interview, and subsequently employed her as a [REDACTED]. Further the panel found that Individual A (Witness F), had been unsuccessful in her interview for the role of [REDACTED], but was subsequently employed by Mrs Clark in that role in 2012.

Further, the panel found that Mrs Clark employed Individual C (Witness B), as [REDACTED] in 2018 without having advertised the role and without Witness B having applied for, or interviewed for, the role. Finally, the panel found that the School did not have proper records of job advertisements, applications, interviews or references and/or qualifications. Mrs Clark said that she trusted the office staff to do this and that Witness C was also responsible for ensuring staff files were up to date and records kept. However, she accepted that she should have checked to ensure the proper recruitment documents were kept in personnel files. The panel found that, while Mrs Clark had discretion to delegate these tasks, as Headteacher she had ultimate responsibility for ensuring that the proper recruitment documents were obtained and stored on file.

On these bases, the panel found that Mrs Clark had not followed due process in appointing staff and accordingly, the panel found the allegation proven.

9. You told individual D that the governing body had declined their request to return part time after maternity leave, after the governing body had agreed to such a request;

The panel considered the oral evidence and written statement of Witness E, who said that she asked to return to work part time when she returned from maternity leave in 2014. She said this request was denied by Mrs Clark who told her that the governors had declined her request to work part time. Witness E told the panel that she later saw a copy of the Governing Body committee meeting minutes, which had been left on a photocopier, which showed that her request to work part time had actually been approved by the governors. Witness E said she was ultimately permitted to return to work

part time, but only after further discussions with Mrs Clark. She said her request was initially refused and Mrs Clark's reason for refusing the request was that the governors did not want her to return to work part time.

When cross-examined, Witness E accepted that the discussions with Mrs Clark may have been over which days of the week, or how many days each week, she would work, rather than whether or not she could work part-time at all. Witness E could not recall the discussions in detail.

The panel considered the oral evidence and witness statement of Mrs Clark who denied the allegation. Mrs Clark said that she did not tell Witness E that the Governing Body had denied her request to work part time. Mrs Clark explained that Witness E had worked part-time in a job share arrangement before going on maternity leave. After her maternity leave Witness E wanted to return part time but the person who had previously shared the job with Witness E was no longer available. Mrs Clark said she did agree to Witness E returning part-time, but there was some discussion around the specific days she would work, as Mrs Clark needed to ensure continuity for the pupils. She said that, as someone who worked part-time herself at the time, she supported her staff working flexibly. Ultimately, she said she and Witness E agreed a compromise. Mrs Clark said that, as the arrangement was ultimately agreed, approval by the Governing Body was not required. Once the part-time arrangements were agreed with Witness E, she informed the governors at the next committee meeting, so they would be aware of what had been agreed. Mrs Clark thought the conversations with Witness E were in or around 2012.

The panel had regard to the fact that the allegation related to an unwitnessed conversation which took place at least 10 years ago, and that memories can fade with time. There was no documentary evidence before the panel relating to the allegation and the only evidence was from Mrs Clark and Witness E, who had different recollections of the conversation. Neither witness had a clear recollection of the details of the discussion, which was understandable given the passage of time since the conversation. The panel was mindful that the burden of proof was on the TRA to prove the allegation. On balance the panel found that there was a discussion between Mrs Clark and Witness E about Witness E returning from maternity leave part-time but that the discussion was more likely about which days Witness E would work when she returned, and the part-time working arrangements were ultimately agreed.

The panel found that there was insufficient evidence to uphold the allegation that Mrs Clark told Witness E that the governors had denied her request to return part time after maternity leave.

Accordingly, the panel found allegation 9 not proven.

10. On or around 20 March 2020, you told individual G that the local authority had insisted that you increased your hours to full time, when that was not the case.

The panel considered the oral evidence and witness statement of Witness C, who said that on 20 March 2020 the School closed due to the Covid-19 lockdown. On that day she and Mrs Clark spoke in Mrs Clark's office. She said that Mrs Clark told her that the Local Authority had insisted that she [Mrs Clark] needed to resume full-time hours because of lockdown. She said Mrs Clark told her that the Local Authority wanted to be able to contact someone five days a week. She said that Mrs Clark also told her that her additional pay for her [REDACTED] role would stop with immediate effect. Witness C told the panel that the Local Authority HR team actually contacted her and asked her for money back, because Mrs Clark had returned to working five days per week some time before their conversation. She said she objected on the basis she had only been told that Mrs Clark was working full time on 20 March 2020, and in the end she was paid for her [REDACTED] duties until the end of the month.

The panel considered the notes of a meeting between Witness A and [REDACTED], Individual U, on 16 April 2021 as part of Witness A's investigation. Individual U told Witness A that it had always been the Governing Body's intention for Mrs Clark to return to full time work, but in March 2020 it was Mrs Clark who instigated the conversation. He recalled that Mrs Clark said she had already agreed this with the Local Authority when they spoke. However, he said that his recollection of the conversation was vague. Individual U did not give evidence at the hearing. The panel had regard to this and gave the evidence in the interview notes appropriate weight.

The panel considered the oral evidence and witness statement of Mrs Clark. Mrs Clark said she did not tell Witness C that the Local Authority had insisted she increase her hours because that was not the case. She explained that she agreed her return to full time hours with the [REDACTED] due to the rapidly evolving Covid-19 situation and the need to be available to support the School as effectively as possible during this challenging time. The [REDACTED] used his emergency powers to increase Mrs Clark's hours to full time. She said that the intention was to ratify the decision at the next governors' meeting, but this was cancelled due to Covid-19 and the matter was forgotten by the time the governors next met. Mrs Clark said that she had started working full time from 9 March 2020 in response to the Covid-19 emergency. She had not sought to be paid full-time from that date, but the [REDACTED] kindly offered to back date the effect of the decision to 9 March 2020.

Mrs Clark explained that in the week leading up to 20 March 2020 she did discuss her return to full-time hours with Witness C; she believed this conversation was on 18 March 2020. When they spoke, she said Witness C became upset as she took the change as a criticism of her role as [REDACTED] on Mrs Clark's non-working day. Mrs Clark said this was a difficult conversation, she was trying to reassure Witness C and reminded her that the Local Authority had always wanted her to work full time, which was not a secret. Mrs Clark said she thought Witness C may have misunderstood, or taken out of context, her reference to the Local Authority wanting her to work full-time.

The panel had regard to the fact that this allegation related to an unwitnessed conversation between Mrs Clark and Witness C. Both witnesses had conflicting recollections of the conversation, which took place during the early period of the Covid-19 pandemic, over four years before the hearing. Both Mrs Clark and Witness C were consistent in their evidence when questioned, and their evidence before the panel was consistent with the accounts they gave to Witness A during her investigation. There was no documentary evidence to support either account over the other. The panel was mindful that the burden of proof is on the TRA to prove the allegation on the balance of probability.

On the evidence before it, the panel found that Mrs Clark and Witness C did discuss Mrs Clark's return to full time hours on or around 18 or 20 March 2020. Further, the panel found that the Local Authority did not insist that Mrs Clark return to full time hours. The panel accepted that the Local Authority had wanted Mrs Clark to return to full time hours, but that in March 2020 it was Mrs Clark who decided to return to full time hours, in her words when interviewed by Witness A, *"purely because I needed to be in school to make decisions"*.

However, the panel found that there was insufficient evidence to conclude that it was more probable than not that Mrs Clark told individual G (Witness C), that the local authority had insisted that she increased her hours to full time.

Accordingly, the panel found allegation 10 not proven.

11. Between around 2019 – 2020 you permitted [REDACTED] to access the School unsupervised on one or more occasions;

12. In around 2019 you provided your [REDACTED] with an access key or fob for the School;

The panel considered allegations 11 and 12 together.

The panel considered the oral evidence and written statement of Witness D, who stated that Mrs Clark's [REDACTED] had been known to wander around the School, generally on a Friday afternoon. He would pick up Mrs Clark's [REDACTED] early, from 2:30pm onwards. She stated that she assumed he had a fob as she once saw him letting himself in through a side door. She also said that he would walk around the School unaccompanied.

During the hearing Witness D was asked about her own experience of seeing Mrs Clark's [REDACTED] unaccompanied in the School. She confirmed that she only saw him once on the occasion he let himself in through a side door. She said that she heard the door click behind her and turned around to see Mrs Clark's [REDACTED]. She said this was a fire exit which required a fob to open. She was aware of another occasion when Individual Q told her that, while she was teaching, she saw Mrs Clark's [REDACTED]

watching her and laughing whilst standing in the corridor outside her classroom. The panel did not hear evidence from Individual Q. The panel was advised that Witness D's evidence regarding what Individual Q had told her was hearsay and gave appropriate weight to Witness D's evidence in this respect.

The panel considered the oral evidence and written statement of Witness B, who stated that Mrs Clark's [REDACTED] had a fob to the School and could come and go as he pleased. She told the panel that Mrs Clark asked her and Witness F for a fob for her [Mrs Clark's] [REDACTED]. Witness B told the panel Mrs Clark's [REDACTED] had a visitor's pass to keep, although she could not recall when this was or whether she gave Mrs Clark the fob, or whether it was Witness F. However, she was sure that the fob was never returned. When questioned during the hearing Witness B could recall two occasions when she saw Mrs Clark's [REDACTED] let himself into the School's main entrance, which she said required a fob. She said one of these was when he helped with the summer fayre. When asked if he had been given a fob for a specific purpose such as volunteering or work experience, Witness B said that volunteers would not normally be given fobs, and she was not aware of him doing work experience. Witness B told the panel there was no way to track who had a visitor fob. They were kept in a basket on Witness F's desk and the office staff would ask visitors to return their fobs when they left.

The panel considered the oral evidence and written statement of Witness F. Witness F gave evidence that Mrs Clark's [REDACTED] had a visitor's fob. It was given to him when he first came to the School, and he had it all the time she knew him. She said she wasn't sure if he kept the fob as she said it was Witness B who generally dealt with badges and visitors as Witness B worked in the front office. Witness F also confirmed that Mrs Clark's [REDACTED] was given a fob when he came in to help with the summer fayres and events. She said she knew for sure that he had a fob because he did not have to ask staff to open any doors.

The panel considered the oral evidence and witness statement of Mrs Clark who denied both allegations 11 and 12, but accepted that her [REDACTED] was given a temporary visitor's fob on several occasions when he assisted with school fayres and when he did a day of work experience at the School. She said that the visitor fobs would be handed back to the office at the end of the day and this was no different from the way any other visitor was treated if they were doing work experience or helping with a fayre. Mrs Clark said that he did not have unsupervised access to the School outside of these prearranged visits. Mrs Clark explained that the visitor's fob was necessary for both the fayre and the day of work experience, as without them he would not be able to access the corridors and classrooms. She confirmed that her [REDACTED] was never left unsupervised with children.

Mrs Clark's evidence was that her [REDACTED] had the same access to the school when picking [REDACTED] up as any other parent collecting a child. If he was picking Mrs Clark's [REDACTED] up from after school club, she said he rang the side doorbell or

rang the mobile number on the door and a member of the after-school club staff would let him in. In the summer, children played on the field after school and parents walked through the building to the field after being let in. She said her [REDACTED] rarely picked her [REDACTED] up straight after school finished. When he did, he entered the building through the main entrance where the office staff would let him in like any other visitor. Staff would then either collect her [REDACTED] for him, or let him into the corridor outside her [REDACTED] classroom to wait for [REDACTED]. She said he would then bring her [REDACTED] to her to say goodbye while she remained at the School to finish work.

The panel considered that on Mrs Clark's own account, and on the balance of all the evidence, Mrs Clark's [REDACTED] did have unsupervised access to the School on several occasions in or around 2019 to 2020. This was when he had a day of work experience and on several occasions when he helped out with the school fayres. Further the panel found that Mrs Clark's [REDACTED] did have an access fob to the School in or around 2019. The panel found that he was given a visitor's pass or fob when he visited the School for work experience and to help with school fayres.

On the balance of the evidence before it, the panel did not find that Mrs Clark gave her [REDACTED] access to the School more generally than this and she did not give him a fob other than on the occasions referred to above. There was no documentary evidence to support this, and the witness evidence was unclear and included hearsay and rumour which may have been triggered by the few occasions when Mrs Clark's [REDACTED] was given a fob for school fayres and work experience, or times when he had been let into the School by staff to collect Mrs Clark's [REDACTED].

However, the allegations which the panel was asked to consider were simply that Mrs Clark's [REDACTED] was given unsupervised access to the School, and that he was given a fob. The panel found these facts proven and accordingly, the panel found allegations 11 and 12 proven.

13. Between around March 2019 until March 2020 you deployed an [REDACTED] into the provision for 2 year olds, who was unqualified for such work;

Mrs Clark admitted the facts of this allegation, however it was submitted that no qualification was required for the work which the [REDACTED], Witness F, was carrying out with two-year-olds.

The panel considered the oral evidence and written statement of Mrs Clark. She accepted that between March 2019 and March 2020, she assigned the [REDACTED], Witness F to assist in the provision for two-year-olds. She said that this was on the understanding that Witness F was qualified for the role. Mrs Clark said that the School's Early Years Advisor at the Local Authority had advised that staff without qualifications could work with two-year-olds in a childcare capacity, but not a teaching capacity, and

could be counted in the required 1:4 staff to child ratio for two-year-olds. Mrs Clark said she discussed this with the Local Authority when setting up the provision for two-year-olds at the School. She said that the Early Years Advisor had assured her that, provided there were qualified teaching staff in the setting, unqualified staff such as the School's "dinner nannies" could also be used to make up the required ratios.

Mrs Clark told the panel that the provision for two-year-olds was fully staffed with 10 teaching assistants and a qualified teacher who led the provision for two- and three-year-olds. However, at times there would be more children than anticipated, if a parent needed last minute support, or if childcare services recommended additional sessions for vulnerable children. When this happened, more staff were needed to maintain the required ratio and "dinner nannies", or teaching assistants from other parts of the School, were deployed into the provision for this purpose. Mrs Clark explained that Witness F had offered to assist with the provision for two-year-olds and this made sense as she had previously been a "dinner nanny" at the School, she had [REDACTED] in the provision, and it meant that a teaching assistant would not need to be pulled from another area of the School. Mrs Clark acknowledged that this was not ideal, but she said it was a temporary solution, and she had interviewed for additional qualified staff for the provision for two-year-olds before she left the School.

The panel considered the oral evidence and written statement of Witness F. She said that there were times when she helped with the two-year-olds every morning or every afternoon. She said this was over a period of months from around March 2019 or April 2019 and until September 2020, when she was told she was on the wrong rate of pay, and should not be assisting with the provision of two-year-olds. She said she didn't particularly want to do this but thought she was helping out. Witness F said she helped with nappies, breakfast, toileting and keeping the children amused. She said she was never asked to do the training with the iPad. She also confirmed that she had no qualifications for this work. Witness F was not sure whether qualifications were required for her work with two-year-olds.

On the balance of the evidence before it, the panel found that Witness F was deployed into the provision of two-year olds on a regular basis between around March 2019 to March 2020. The panel found that Witness F was caring for the children, this included changing nappies, toileting, breakfast and entertaining the children. Further, the panel was satisfied on the evidence before it that Witness F did not have any qualifications relevant to working with or caring for two-year olds.

However, there was no evidence before the panel that Witness F carried out any work with two-year-olds which required a qualification. It was not submitted by the TRA that she did. The panel was mindful that the burden of proof is on the TRA. The panel considered the wording of the allegation. The panel concluded that the allegation that Witness F was 'unqualified for such work' necessarily implied that there were qualifications required for the work she was carrying out, and that she did not have such

qualifications. As there was no evidence before the panel that there were any qualification requirements for the work Witness F was doing, the panel found that Witness F was not 'unqualified' for the work she was doing caring for two-year-olds, there seemingly being no qualification requirements for this work.

Accordingly, the panel found allegation 13 not proven.

14. From around September 2020, you staffed a reception class with a HLTA;

This allegation was admitted by Mrs Clark. The panel considered the oral evidence and written statement of Mrs Clark, who said that she now recognises this was not appropriate. She said that a teacher had also been interviewed for the role, but that during the interview process she believed that [REDACTED], Individual B, was the best candidate. Mrs Clark said that this was a temporary role while the existing reception teacher was on maternity leave. Mrs Clark said that Witness C attended the interviews and was involved in the decision. She said that Witness C, who was the [REDACTED], never raised that this was inappropriate and actively agreed that Individual B was the stronger candidate. Mrs Clark said [REDACTED] and her judgement was affected by the financial worries of the School. She said this made her more reliant on Witness C's guidance than she normally would have been.

Mrs Clark explained that she thought the arrangement was legal because she had previously received advice from the Local Authority that a HLTA could teach a class provided there was a qualified teacher in the other class and the two classes were taught as a unit. She explained that the classes were taught in two open plan rooms and that in some sessions the pupils moved between the two rooms. However, during the hearing Mrs Clark accepted that the two reception classes were not being taught as a unit. [REDACTED].

The panel considered the oral evidence and written statement of Witness C, who stated that from the time of the first lockdown in March 2020 to September 2020, [REDACTED], who was unqualified, was the only teacher in place for the two reception classes. She stated that a qualified teacher had been appointed to teach in reception, but their start date was postponed due to Covid-19 as it was considered unnecessary to have two teachers to lead and support home learning. Witness C said Mrs Clark announced this at a staff meeting. In her interview with Witness A on 30 November 2020, Witness C said that at that time there was [REDACTED] teaching one of the reception classes. Witness C said she challenged this arrangement at the time of the appointment, but Mrs Clark told her that she had checked with the Local Authority who said that it was fine.

The panel considered the oral evidence and written statement of Witness D, who told Witness A on 13 November 2020 that at the time, [REDACTED] was teaching one of the reception classes. Witness D said that both reception teachers went on maternity leave

at the same time. She said that during the interview process for cover teachers Mrs Clark said she had checked with HR and it was ok for a HLTA to cover a reception class.

The panel considered the oral evidence and written statement of Witness H, who said that an NQT and an HLTA were teaching the two reception classes. She said that HR advised her that this was not compliant with infant class size regulations. She said she managed to negotiate a legal solution by taking the [REDACTED] out of class so she could oversee both reception classes.

The panel considered the evidence before it, including Mrs Clark's admission. The panel found that in or around September 2020, Mrs Clark staffed one of the School's two reception classes with [REDACTED], Individual B. The panel further found that Mrs Clark had previously received advice from the Local Authority that this was compliant, provided the other class was taught by a teacher and both classes were taught as a unit. The panel found that the two reception classes were not taught as a unit when Individual B was appointed to teach a reception class in or around September 2020. Mrs Clark accepted that this was inappropriate, and the panel agreed.

Accordingly, the panel found allegation 14 proven.

15. In or around September 2020, you permitted a year 2 class to include 31 children, contrary to the School Admissions Code 2021;

At the beginning of the hearing the presenting officer confirmed that allegation 15 would no longer be pursued by the TRA. The panel did not hear oral evidence in relation to this allegation, which was denied by Mrs Clark.

The panel noted that the burden of proof was on the TRA to prove the allegation. There was no evidence before the panel that School Admissions Code 2021, or its predecessor codes, had been breached and there was no evidence that one of the exceptions in those codes did not apply.

Accordingly, the panel found that there was insufficient evidence to support the allegation and found allegation 15 not proven.

16. On or around 9 December 2019, you excluded SEN pupils from a whole school assembly, seeking to improve the appearance of the school to visiting members of the press;

There was extensive evidence before the panel in relation to this allegation. The panel considered all the relevant evidence.

The panel considered the oral evidence and written statement of Witness D, who said that any child with a wobble cushion was not allowed to be in the room for an assembly on 9 December 2019, which was filmed by [REDACTED]. Witness D explained that a

wobble cushion is a sensory aid which is commonly used for children with SEN. She said that teachers were given consent forms to get parental consent to their children being on television. However, one class where all the children had SEN or were vulnerable (the class which later became class 5i), was treated differently because they were not given consent forms. Witness D said she did not attend the assembly herself, but she was told by Witness E that the class was not allowed to attend the assembly. Witness D said she taught that class in the afternoons and Witness E taught them in the mornings. She said that Witness E told her that she had been told by Mrs Clark that *“anyone with a wobble cushion was not allowed in the assembly.”* She said that she assumed this applied to all children with a wobble cushion, not just those in her class.

The panel considered the oral evidence and written statement of Witness E, who stated that some children had to be excluded from a whole school assembly and be supervised because they had wobble cushions and were disruptive. She stated that Mrs Clark said, *“any children with a wobble cushion couldn’t be included”*. She said she thought Witness D was there when Mrs Clark said this, but she could not recall whether Witness D told her about this or whether she heard Mrs Clark say this herself. She confirmed that she did hear Mrs Clark say that she wanted the assembly to go smoothly. Witness E said she did not attend the assembly herself because she was supervising the children who were excluded. Witness E’s evidence was unclear as to how many children were excluded. At different times she said it was six to eight children, or four to five children. However, she confirmed that it was not the entire class.

The panel considered the oral evidence and written statement of Mrs Clark who denied this allegation. She said that she would never intentionally marginalise any pupils, including pupils with SEN. Mrs Clark said that the assembly on 9 December 2019 was attended by newspaper journalists, not [REDACTED]. It would not have been filmed, so there was no need for parental consent forms for the children to attend the assembly. Mrs Clark said that a considerable number of pupils with SEN were present at the assembly on 9 December 2019, and if any were not present this would have been because of their individual needs, parental requests, or specific support arrangements for those children.

Mrs Clark said a teaching assistant asked her if two particular children, who had specific needs, were required to attend the assembly. These children often did not attend assemblies because they became distressed or aggressive. Mrs Clark said she agreed to these pupils not attending because she believed that this was in their best interest. She said that one of these two children used a wobble cushion. Mrs Clark suggested that her intentions in permitting these children to be absent for their own wellbeing may have been misunderstood. Mrs Clark also confirmed that pupils from the class which became class 5i, although at the time it was class 4L (referred to by Witness D) did attend the assembly. Mrs Clark also told the panel that at the end of a meeting discussing the

assembly a member of staff asked whether they should bring wobble cushions into the assembly. Mrs Clark said she replied that they could if they felt they needed to.

The panel heard conflicting accounts from the witnesses who said that SEN children were excluded from the assembly. There was no consistency in the numbers of children who were said to have been excluded or how the exclusion happened. The evidence was also unclear in relation to the allegation that Mrs Clark said children with wobble cushions could not attend. Witness D said she was told this by Witness E. Witness E said she thought she heard it directly and she thought Witness D was there. However, she was also unsure about whether she had been told this by Witness D.

On the balance of the evidence before it the panel considered that Mrs Clark's account was more likely than not to have occurred. The panel found it was more likely than not that discussions around whether a small number of children should attend the assembly for their own wellbeing, and discussions about whether to bring wobble cushions into the assembly, were misunderstood and/or changed in retelling when they were discussed by the School's staff.

The panel found that Mrs Clark did not exclude SEN children from a whole school assembly seeking to improve the appearance of the school. The panel found that some SEN children may not have participated in the assembly, but the panel concluded that this was at the suggestion of their teaching assistant, which Mrs Clark agreed with. The panel found that this was to accommodate the needs of those SEN children who may, on that particular day, have found the whole school assembly stressful or upsetting. On the balance of the evidence the panel did not accept that this was done to improve the appearance of the school to visiting members of the press.

Accordingly, the panel found allegation 16 not proven.

17. In or around March – July 2020, you told parents of vulnerable children eligible to attend on-site provision, that they were not allowed to do so;

The Panel considered the oral evidence and written statement of Witness H, who stated that she was told by the mother of Pupil J, [REDACTED], that Mrs Clark had told her that Pupil J could not attend school during the first lockdown because his behaviour needs could not be met with the reduced staff in the School. Witness H said that there were at least four children to her knowledge whose parents said they had been prevented from attending the School during the first lockdown. She said their parents had been told they would not cope in school, and that the School did not have adequately trained staff in School to deal with them every day. She told the panel that the parents told her this directly. Witness H also noted that during the second lockdown, families of vulnerable children were actively approached and encouraged to attend School. She said over 100 children attended the School each day during the second lockdown.

The panel considered Witness H's evidence carefully. The panel found Witness H a credible witness, but had regard to the fact that she was reporting what she had been told by the pupils' parents. The parents did not attend the hearing to give evidence. The panel considered Witness H's evidence was hearsay in this respect and gave it appropriate weight. The panel noted that Witness H's conversations with parents took place over seven months after Mrs Clark made the alleged statements to them.

The panel considered the oral evidence and written statement of Witness C who said that there were approximately 10 children in School during the first lockdown in March 2020 until the May half term. She said most of the children in School were children of key workers except for two children who were known to social services. She said these two children were well behaved so they were "*accepted by Mrs Clark to attend school.*" Witness C said that given the number of vulnerable children at the School, she felt more of them should have been in school during the first lockdown, but Mrs Clark made it clear that she wanted very few children in the School and she did not want any children in School who had behavioural issues because she wanted the School to be staffed by teaching assistants and lunchtime supervisors. Witness C explained that she was told that Mrs Clark rang the parents of a child and told them their child could not come in to School. She said the child was vulnerable and his mother didn't initially want him in school, but when reception reopened, she wanted him to come back in. Witness C also said the Mrs Clark told her to persuade social workers that it would not be a good idea for some vulnerable children to attend school and she said she did not want some children in school who were really struggling.

The panel considered the oral evidence and written statement of Witness D, who said that no vulnerable children attended the School during the first lockdown. She said the pupils who attended during that time were all children of key workers. Witness D said that Mrs Clark did send out messages that there were places at the School for vulnerable children, but when parents wanted vulnerable children to attend, they were put off by Mrs Clark. Witness D described a parent who was struggling with a child with SEN during the first lockdown, Pupil J. She said that she recommended that he should come into school and logged this on CPOMS, but she received a message from Mrs Clark saying the child should not be in school because he could not socially distance.

The panel considered the oral evidence and written statement of Mrs Clark who denied the allegation. She said that throughout the period she encouraged families to make decisions in the best interests of the children and in line with government guidance. She said that Witness C, [REDACTED], and Witness D, [REDACTED], were responsible for liaising with families to arrange the most appropriate provision for the children and that she was not involved in those discussions. Her involvement was to organise the bubbles with Witness C, and she also posted messages on the School Facebook page and a text message system to tell parents that the School was open for children of key workers and vulnerable children.

Mrs Clark confirmed that she did speak to the parents of Pupil J about whether he should attend school. She said Pupil J's parents had kept him at home during the first lockdown, but in July, after the School began to reopen for reception children, around two weeks before the end of term, his mother was considering sending him back in. Mrs Clark said the class teacher and Witness C had concerns, which she shared, about how Pupil J's needs could be accommodated if he did return to school. He required both emotional and physical support for his needs. Mrs Clark said she spoke to Pupil J's mother at Witness C's and the class teacher's request. She said that when they spoke, Pupil J's mother confirmed to her that she did not want [REDACTED] to return to School until September. Mrs Clark said they discussed arrangements for support that could be provided for him if she changed her mind, his transition into a new class in September, and the support that would be available. She said Pupil J's mother seemed relieved at the arrangements discussed. Mrs Clark suggested that this conversation may have been misunderstood or misremembered.

The panel considered the allegation carefully. The panel noted that that none of the witnesses directly heard Mrs Clark tell parents of vulnerable children that they could not attend the School in this time period. The TRA's evidence that Mrs Clark told parents this was second hand in each case. The evidence from Witness H was hearsay, the mother of Pupil J did not give evidence at the hearing, and the panel had regard to the delay in time before Mrs Clark's alleged statements to parents were reported to Witness H. Mrs Clark accepted that she discussed Pupil J with his mother, but her evidence was it was his mother who ultimately decided to wait until the next term started in September.

Further the panel noted that there was evidence that two vulnerable children did attend the School during the first lockdown. While there was evidence that far more vulnerable children attended the School over the second lockdown, this was not the allegation that the panel was asked to consider. Mrs Clark's evidence that it was Witness C and Witness D who dealt with parents of children who were eligible to attend school during the first lockdown, was consistent with the evidence of Witness C and Witness D.

On consideration of the evidence, the panel accepted Mrs Clark's version of her conversation with Pupil J's mother. It was possible that Pupil J's mother misunderstood or misremembered the conversation, and she was not available at the hearing to answer questions about her recollection. The panel had regard to the fact that the burden of proof is on the TRA to prove the allegation on the balance of probabilities. Without a direct witness to the conversations present at the hearing, the panel considered that on balance there was insufficient evidence to find that Mrs Clark told parents of vulnerable children eligible to attend on-site provision, that they were not allowed to do so.

Accordingly, the panel found allegation 17 not proven.

18. You demonstrated favouritism and/or discrimination, including by;

- a) Dividing or maintaining the division of the year 5 intake into a class ('5G') which included your [REDACTED], in which there were no pupils with SEN or additional needs; and another class ('5I'), all or most of whom had SEN or additional needs;**
- b) Facilitating class 5G to experience trips, activities and/or classes that were more costly and/or frequent and/or of a greater quality than those experienced by other classes.**
- c) Deploying the KS2 teaching assistant into class 5G for more periods than any other class, despite 5G having less need than other classes;**
- d) Asking and/or instructing Individual H to include your [REDACTED] in an athletics event for which he had not been selected;**

There was extensive evidence before the panel in relation to this allegation and numerous examples given in relation to School trips and activities. The panel considered all the evidence before it, not only the evidence described below.

The panel considered the oral evidence and written statement of Witness C, who told the panel that year 5 was split by ability into two classes, and all the children with SEN or safeguarding concerns were put in one class. She said one class was treated more favourably than the other, this class had Mrs Clark's [REDACTED] in it. She told the panel that she felt that the split had a detrimental effect on the class with higher needs and she objected to the way the year group was split. She said that other members of the Senior Leadership Team and external professionals and agencies had also raised concerns about the way the year group was split. When questioned during the hearing Witness C agreed that Mrs Clark's justification for the split was so that a 'nurture' approach could be taken with the lower ability class. However, she said that Mrs Clark openly said a number of times that the split was because her [REDACTED] was in the year, and she did not want them mixing with some of the children.

Witness C told the panel that the two classes went on the same school trips, but went at different times so they would not mix. When asked if Mrs Clark said that she wanted the two classes to have the same opportunities, Witness C agreed but Mrs Clark did not want them going on trips together. She said the class teachers were specifically told to organise trips on different days, however, Witness C could not say how she knew this. When asked, Witness C also agreed that the ukulele lessons provided to class 5G were on a rota that would rotate to other classes.

The panel considered the oral evidence and written statement of Witness D who also stated that Year 5 was split into two classes and that the class with Mrs Clark's [REDACTED] was shown favouritism. Witness D said the other class had "challenging" children in it and a lot of them had additional needs. She also confirmed that external

agencies had expressed concerns about the way the year was split. She said this split had been the case since Years 3 or 4 and it continued into Year 5. Witness D told the panel that she had taught the higher needs class when they were in Year 4 and she struggled to manage them. She said there were 14 children in the class, but they had very high needs and at times she was physically attacked by the children. Witness D explained that the two Year 5 classes were always split and they would never go on a school trip together as a whole year group. Witness D said that Mrs Clark always came across as wanting the best for the children, but she doubted this. She said ukulele lessons were only provided to Mrs Clark's [REDACTED] class. However, when questioned about this, she agreed these lessons were on a rota and the other class had been due to receive ukulele lessons in the following term.

The panel considered the oral evidence and written statement of Witness E, who told the panel that the year group was first split part of the time when they were in year two. This increased until they were apart almost all of the time. She said that at the end of the year the classes were formally split for the next year. Witness E said that Mrs Clark said to her that this was because she "*didn't want certain kids with her* [REDACTED]". Witness E said that in Year 3 a newly qualified teacher was assigned to the higher needs class. She was unable to manage the class and ultimately left the profession because of the experience. Witness E said that "*the whole school revolved around Mrs Clark's* [REDACTED]".

Witness E confirmed that the two classes went on different trips, which increased the cost of school trips. She said that on one occasion the favoured class went on an expensive trip to Alnwick Castle and had Harry Potter broomstick lessons, whereas the other class went to the local park. She said the headteacher would go with her [REDACTED] class when they went swimming on Monday afternoons. She said they might go to the library first, then to the park afterwards. This meant they were out of school for the whole afternoon.

The panel considered the oral evidence and written statement of Witness H, who stated that in Year 5 there were two classes, one higher ability class and one lower ability class. She stated that the lower ability class had significant educational, behavioural and emotional needs. Witness H explained that there was an alarming number of safeguarding concerns for specific children within this group and one child with an EHCP. Witness H stated that "*strangely*", the higher ability class received more teaching assistant support than the lower ability class. She explained that the higher ability class had a teaching assistant for 3.5 days a week whereas the lower ability class had a teaching assistant designated for 1:1 support to a child with an EHCP. Witness H stated that this teaching assistant was also deployed to do lunch duty and for at least one afternoon session per week in reception.

Witness H also told the panel that the reception and Year 1 year groups were split in a similar way. She said those classes were split according to needs, but the split was not

as notable as for Year 5. Witness H said that the reception class and Year 5 class with additional needs were not well supported, and the split meant that the children did not have positive role models in their classes.

The panel considered the oral evidence and written statement of Witness G, who stated that she taught class 5i, the higher needs class. She said the class had many students with high levels of educational, social and emotional needs. At the time she said she was [REDACTED] and not a Qualified Teacher. Witness G explained that the class was supported by a teaching assistant in the mornings who gave one-to-one support to a particular child. However, on some occasions the teaching assistant would be pulled to cover lunchtime for early years and reception. It was then decided that the teaching assistant would support the class full time, but they were often pulled away to assist with other classes or events such as the School sports day. Witness G said she also had another teaching assistant who supported her class two afternoons per week. She stated that she did not feel her teaching assistant support was sufficient or appropriate to the level of need of the pupils. She explained that, of the 14 children in the class, nine of them were on support plans. She said she was not aware of any children on support plans in the other Year 5 class.

Witness G said that the other class were doing ukulele lessons, but she understood that her class would have ukulele lessons after Christmas. She said there was an occasion when Mrs Clark arranged for a football coach from the local team to visit the school. Mrs Clark asked her if she wanted her class to participate in the coaching. She said she felt this was rhetorical and that Mrs Clark did not want her class to take part. Therefore, she declined the offer and the other Year 5 class and a Year 2 class did the coaching instead. Witness G told the panel that in the previous year, when her class was in Year 3 or Year 4 she had occasionally covered for their teacher. She said the two classes went swimming on the same afternoon. She said the other class was allowed to play football after they finished swimming, but her class was not allowed to do this, which she thought was unfair.

Witness G also told the panel about a time when she was organising an athletics roadshow. Mrs Clark asked her why her [REDACTED] was not running. Witness G said that when she explained to Mrs Clark that they had not been selected, Mrs Clark told her to enter her [REDACTED] regardless. She said she asked if she should just enter Mrs Clark's [REDACTED] into any running events in the future and Mrs Clark confirmed that she should. When asked at the hearing Witness G confirmed she did not see the pupils in the athletics roadshow because she was teaching.

The panel considered the oral evidence and written statement of Mrs Clark who accepted some of the facts of allegation 18 but denied that they amounted to favouritism or discrimination. Mrs Clark said that the division of the year group was based on the abilities and educational needs of each student and was intended to provide the best

learning environment for all students. She explained that there was at least one child with SEN in class 5G.

Mrs Clark said that the practice of splitting year groups by ability was established by her predecessor to accommodate varying abilities and needs, foster differentiated teaching and a supportive learning environment. Mrs Clark said that the year group was divided in Year 2, before [REDACTED] joined the School, because there was a wide range of ability and needs in the year group and the teaching staff had struggled to manage them as one class in Reception.

Mrs Clark confirmed that the year group had very high needs. She said she was aware of concerns raised by outside agencies about the split of the year group. However, these were raised in Year 4 when there were three or four children in the class with particularly challenging needs. These children subsequently moved into specialist support in different schools at the end of the year which left a smaller class going into Year 5, which she hoped would be more manageable. Therefore, an approach of maintaining a smaller 'nurture' class (5i) was taken to focus on their needs, including a tailored curriculum, shorter teaching sessions and enhanced emotional support. Mrs Clark explained that the children in the larger class (5G) could follow the Year 5 curriculum, but some of the children in 5i could not and were still working at a Key Stage 1 level. She said the split meant that each class could be taught according to their educational needs.

Mrs Clark said that such a small class of 13 children was very unusual, but she felt this was the best way to support the pupil's needs. She felt that the children in 5i would have struggled in a large class of 30 children and SEN funding was used to finance the split and the support for the children, which would not otherwise have been feasible.

Mrs Clark said that the classes came together regularly in joint activities, such as school trips, music lessons and sports events, and they were organised into the same bubble during Covid-19. Mrs Clark gave detailed explanations of the trips taken by the two classes from Year 2 to Year 5. She explained that, where trips were different, this was the class teacher's choice, either because the different trips were relevant to different subjects the children were studying, or because the teacher of the higher needs class did not think a particular trip would be suitable for their class. Mrs Clark explained that on some occasions she had to step in to ensure that both classes had the same opportunities, or to remind their class teachers (which included Witness D and Witness E) to coordinate with the other class to ensure they went on the same trips wherever possible, and to ensure that the trips were taken as close together as possible. In particular, Mrs Clark referred to the occasion where one class went to Alnwick Castle while the other class went to Hardwick Park for a story activity. Mrs Clark said this occurred in Year 2, when the classes were split differently, and before her [REDACTED] joined the School. She said she encouraged both teachers to take their classes to Alnwick Castle, but one of them decided not to and she respected their decision.

Mrs Clark explained that when the year group was in Year 4, the two classes had staggered swimming lessons, one after the other, with 5G going first. She said class 5G were sometimes allowed to play football in the park by the pool while waiting for the bus, as an incentive to get changed quickly after their swimming lesson. During the hearing, Mrs Clark also confirmed that on a couple of occasions, although she could only remember one occasion in particular, class 5G were allowed to spend longer playing football as a special treat.

Mrs Clark explained that Witness C was responsible for allocating support staff to classes. She said she [Mrs Clark] deliberately did not involve herself in allocating teaching assistants to avoid the appearance of bias. Mrs Clark said the teaching assistant assigned to class 5G had other duties covering teachers' PPA, training, meetings and sickness. Mrs Clark said class 5i had a full-time teaching assistant and another teaching assistant supported the class part time to cover Witness G's PPA time and to assist with special needs when required.

Mrs Clark said that she did not instruct Individual H (Witness G), to include her [REDACTED] in the athletics event. She explained that she was dropping her [REDACTED] off for school and saw other children in their PE kit. She was concerned that she had missed something and asked Witness G whether her [REDACTED] was supposed to be in his PE kit. Witness G explained that he had not been selected for the athletics event, but said there was space if they wanted to join in. Mrs Clark said she spoke to the coach when he arrived, who told her that there had been a misunderstanding, there was no restriction on the number of children from each class who could participate, and more children could take part if they wished to. Mrs Clark said that the option to take part last minute was offered to children in all classes, including her [REDACTED] class. Mrs Clark's witness statement included a photograph showing several children participating in a race in their school uniforms.

There was extensive evidence before the panel in relation to this allegation. The panel noted that the TRA relied heavily on witness evidence to support this allegation and there was very little contemporaneous documentary evidence before the panel in relation to this allegation. The panel had regard to the fact that the burden of proof was on the TRA to prove the allegation on the balance of probabilities.

The panel found the following facts proven:

- a) Mrs Clark maintained the division of the Year 5 intake into class 5G which included [REDACTED] and in which there were no, or very few pupils with SEN, and class 5i in which all or most of the pupils had SEN or additional needs. The panel found that the year group had first been split informally in year two, before [REDACTED] joined the School. The split was formalised at the end of Year 2 for the start of Year 3, and the split was maintained through

to Year 5, although the numbers and pupils in each class varied from year to year.

- d) Mrs Clark asked and/or instructed Witness G to include her [REDACTED] in an athletics event for which he had not been selected. The panel accepted Mrs Clark's explanation, which was not disputed, that she enquired with the coach whether other children who had not been selected could participate. The panel found that children who had not been selected were allowed to participate in the event and this included Mrs Clark's [REDACTED].

However, the panel did not find proven that:

- b) Class 5G enjoyed trips, activities and/or classes that were more costly, frequent and/or of greater quality than those experienced by other classes. The evidence before the panel was unclear and inconsistent on this point. Mrs Clark explained why the two classes sometimes went on different trips or went on the same trips but at different times and the panel found this explanation to be cogent and plausible. Some of the examples given by witnesses related to trips when the year group was in Year 2 before [REDACTED] joined the School. Further there was evidence that some of the experiences or extra lessons complained about by the witnesses were also available to other classes on a rota basis. The panel accepted Mrs Clark's explanation of this. The panel heard extensive evidence relating to class 5G being permitted to play football after swimming lessons. The panel considered this happened occasionally and was at the discretion of the class teacher for each class. The panel did not consider that this amounted to facilitation by Mrs Clark of more costly, frequent or higher quality activities than other classes. The evidence focussed on the trips, activities and or classes enjoyed by the classes which became 5G and 5i. There was little evidence before the panel relating to the cost, frequency and quality of the trips, activities and classes enjoyed by other years and other classes. There was insufficient evidence for the panel to make a proper comparison between the activities enjoyed by class 5G and classes in other years, and on balance the panel did not find proven that 5G enjoyed activities that were more costly, frequent, or higher quality than those enjoyed by class 5i.
- c) Mrs Clark deployed the Key Stage 2 teaching assistant into class 5G for more periods than any other class, despite 5G having less need than other classes. The panel found the evidence in relation to this allegation to be unfocussed and inconsistent. The panel found that class 5G was allocated one teaching assistant who also had other duties which included supporting class 5i as well as other classes. The panel found that class 5i was allocated one full time and one part time teaching assistant, albeit one of the teaching assistants in class

5i may at times have been asked to assist with other duties, such as lunch supervision.

The panel then considered whether any of the facts found proven amounted to favouritism or discrimination as alleged.

The panel found that Mrs Clark's [REDACTED] joined the year group in year 3, after it had been split into two classes. On the evidence before the panel, it was clear that the year group was large, with a wide range of educational ability and a high level of need. The panel found that the classes were split according to ability which the panel did not consider to be unusual. This year group had over 30 pupils in it by Year 4. The panel considered it was not unreasonable to divide a large year group into two classes based on ability so that lessons and support could be targeted to the needs of the pupils in each class.

There was evidence before the panel that other year groups had also been split based on ability. The panel did not accept that Mrs Clark openly said that the split was because her [REDACTED] was in class 5G and she did not want them mixing with the children in class 5i. It was clear to the panel that the School staff who gave evidence felt strongly that the year group was split as it was, and that class 5G was favoured, because Mrs Clark's [REDACTED] was in that class. However, on balance, there was insufficient evidence before the panel to support this view, and the panel found that Mrs Clark did not demonstrate favouritism, or discrimination, by maintaining the division of the Year 5 year group.

The panel noted that there were outside agencies who disagreed with the split and that Witness H did not think it was the right approach when she joined the School after Mrs Clark left. However, the panel did not find that the way the year group was split was affected by either favouritism or discrimination. The panel found that this was an operational decision made in the best interests of the pupils, and it was not within the panel's remit to decide whether this was ultimately the best decision for the pupils in the year group.

On the evidence before it, the panel did not consider Mrs Clark's request for her [REDACTED] to be included in the athletics event amounted to favouritism or discrimination. On balance the panel accepted Mrs Clark's explanation that other children who had not been selected were also allowed to take part in the athletics event. Whether or not this was original intention of the event, the panel found that other children, in addition to Mrs Clark's [REDACTED], were permitted to participate in the event, despite not having been selected. There was no clear evidence before the panel which disputed Mrs Clark's account on this point. Accordingly, the panel found that this did not amount to favouritism or discrimination.

Accordingly, the panel found allegation 18 not proven in its entirety.

19. Between around September 2014 and October 2020, you employed Individual I to undertake around 100 days work, at a total cost of around £19,792.88 without a proper procurement system;

Mrs Clark admitted this allegation. The panel considered Mrs Clark's evidence. Mrs Clark accepted that it was inappropriate for her to have employed Individual I in the way she did. She said that at the time she believed that she was acting in accordance with the School's procurement policies. Mrs Clark explained that Individual I was [REDACTED]. She said she engaged Individual I to assist with the Schools Financial Value Standard reports (SFVS) because she did not have confidence that the School's office staff could manage the SFVS and Witness C said she did not have capacity to do this. She said Individual I also assisted with some project work and proofread pupils' reports for her. Mrs Clark said that at the time she felt the decision made sense because Individual I knew the School so well. Mrs Clark said she checked the arrangement with the [REDACTED] and with the [REDACTED] at the time, and she was told that the arrangement was permissible, provided Individual I was not paid as a [REDACTED].

Mrs Clark said she notified the [REDACTED] and Individual I completed a declaration of interest each year. She also said that the [REDACTED] and the finance committee member of the Governing Body were fully aware of the work Individual I was doing. On reflection, Mrs Clark accepted that a tighter system of amounts and days should have been agreed. She also accepted that she asked Individual I to assist with completing pupil reports in 2020, and she accepted that she should not have done this and should have gone through a formal procurement process for the work that Individual I was engaged to do. Mrs Clark confirmed that she retrospectively filled out some timesheets on Individual I's behalf in September 2020, for work done by Individual I earlier in the year during lockdown. [REDACTED]. Mrs Clark accepted on reflection that this was "*completely inappropriate*". She said she knew that Individual I's pay was overdue and was trying to ensure the payments were made to Individual I in the next pay run.

The panel considered emails between Witness A and Individual R, [REDACTED], on 3 December 2020 and 22 February 2021, as part of Witness A's investigation. In the emails Individual R confirmed that Individual I was set up on the pay system as a supply teacher from 2 February 2014 and was paid as a teacher. She confirmed that Individual I had been paid a total of £19,792.88 for 498.5 hours' work between February 2014 and May 2020. Individual R confirmed that a 'working day' is considered 5 hours and therefore the panel noted that this equated to 99.7 working days.

Further the panel had regard to three time sheets in the bundle for Individual I's work in March, April and May 2020. Two were dated 4 September 2020 and the third was undated. The panel noted that two of the three timesheets were not signed by Individual I. Instead, they were signed *per pro* by Witness B and countersigned by Mrs Clark.

The panel considered the evidence of Witness C who, in follow up questions as part of Witness A's investigation stated that Individual I was paid to proof-read pupil reports up until lockdown. She also stated that Individual I worked with Mrs Clark on SFVS, but Witness C assumed this was done in Individual I's capacity as a [REDACTED] as she understood that the SFVS was Mrs Clark's responsibility to complete.

The panel considered the note of Witness A's investigation meeting with Witness B on 17 November 2020. In the note Witness B stated that Mrs Clark paid Individual I for proof reading pupils' school reports, she said this was done annually. She also said that from September 2020, Mrs Clark had regular weekly meetings with Individual I, at Individual I's home, to work on "*governor's stuff*" and the SFVS. Witness B explained that in September 2020, Mrs Clark asked her to sign some timesheets on behalf of Individual I. Witness B said Mrs Clark filled in the timesheets. She said her understanding was that this was for work done during lockdown, but she did not know what the work was.

The panel considered the note of Witness A's investigation meeting with Individual U on 25 November 2020, the [REDACTED] at the time, who had stated that he was not aware of Individual I being paid for proof reading reports. He said he was aware that Individual I was working on the SFVS, but he was not aware of what she was being paid for this. Individual U confirmed that he was not aware that had been paid on the teachers' pay scale. The panel also considered the note of Witness A's investigation meeting with Individual I on 10 December 2020. In the note stated that she completed the SFVS every year and checked pupil reports for spelling and grammar. She had stated that she was unaware of which pay scale she was paid on. Individual U and Individual I did not give evidence at the hearing and therefore the panel gave appropriate weight to the evidence in Witness A's meeting notes.

The panel considered all the evidence, including Mrs Clark's admission of the allegation. The panel found that between September 2014 and October 2020 Mrs Clark employed Individual I on the teacher pay scale to complete the SFVS, proofread pupil reports and carry out other project work. The panel found that Individual I worked the equivalent of around 99.7 days over this period, at a total cost of around £19,792.88. There was no evidence before the panel that a proper procurement process was undertaken to identify and scope the work, ensure proper oversight of the arrangement, or to formalise Individual I's rate and the time required to complete the work. There was evidence before the panel that in September 2020, Mrs Clark retrospectively filled out timesheets for Individual I, asked Witness B to sign them on Individual I's behalf, and then countersigned them. Mrs Clark accepted during the hearing that this was "*completely inappropriate*", and the panel agreed with this assessment.

Accordingly, the panel found allegation 19 proven.

20. Your conduct as may be found proven at 7, 9, 10 and 17 above lacked integrity and/or was dishonest.

Having found the conduct alleged in allegations 7, 9, 10 and 17 not proven, the panel did not go on to consider whether such conduct amounted to lack of integrity or dishonesty. Accordingly, the panel found allegation 20 not proven.

21. Your conduct as may be found proven at 8 a-c, 9, 11, 12, 17 and/or 18 above constituted discrimination.

The panel found the conduct alleged in allegations 9, 17 and 18 not proven and therefore did not go on to consider whether such conduct amounted to discrimination.

The panel considered whether the allegations found proven, being allegations 8 a-c, 11 and 12, constituted discrimination. The presenting officer made no submissions as to how these were alleged to be discriminatory. In the absence of submissions from the presenting officer, the panel took legal advice as to the meaning of discrimination under the Equality Act 2010 (the Equality Act) and bore this definition in mind when considering the allegation. The panel had regard to the fact that the burden is on the TRA to prove the allegation on the balance of probabilities.

On the evidence before it, the panel did not consider that any of the facts found proven related to a protected characteristic as defined in the Equality Act.

In relation to allegations 8 a-c, the panel did find that there was a lack of due process in relation to Mrs Clark's employment and recruitment practices. The panel noted that good practice in recruitment reduces the risk of discrimination. However, there was no evidence before the panel of any actual discrimination in this case.

As regards allegations 11 and 12, the panel found these allegations proven as a matter of fact, but did not consider the facts proven to be material. Mrs Clark's [REDACTED] was given unsupervised access to the School, and received a visitor fob, in the same way anyone else would when helping with events or doing work experience. The panel noted that there was evidence that records and control of visitor passes could have been better at the School. However, there was no evidence of any discrimination before the panel.

Accordingly, the panel found allegation 21 not proven.

22. Your conduct as may be found proven at allegations 1, 4, 5, 6, 7, 11 and/or 12 above constitute a failure to take appropriate action and/or to ensure appropriate action was taken to safeguard one or more pupils.

The panel found the conduct alleged in allegation 7 not proven and therefore did not go on to consider it further under allegation 22.

The panel considered the allegations which *were* found proven, being allegations 1, 4, 5, 6, 11 and 12, and considered whether these amounted to a failure to take appropriate action and/or to ensure appropriate action was taken to safeguard pupils.

The panel did not consider that allegation 1 amounted to a pupil safeguarding failure. The facts upheld by the panel in relation to allegation 1 related to a failure by Mrs Clark to attend the School and a failure to provide adequate supervision to the on-site staff members. On the facts found proven, the panel did not find that there was a failure to take appropriate action and/or ensure appropriate action was taken to safeguard pupils. This was not the focus of allegation 1, or the evidence relating to the allegation. There were around 10 pupils in the School at any time between March 2020 and May 2020, and there was evidence that the small numbers of children in the School were supervised by teaching assistants and lunchtime supervisors. The panel heard evidence that there was a member of the School's Senior Leadership Team in the School throughout this period. Accordingly, the panel found allegation 22 not proven in respect of allegation 1.

The panel considered the facts found proven in relation to allegation 4. The panel considered that Mrs Clark failed to act to remedy the risks posed by the unsafe play area. The panel found that this was a safeguarding risk. The panel found that there was a risk that pupils could get through or over the fence between the yard and the staff carpark, and that this happened on at least one occasion. The children would then be able to leave the school premises onto the road outside the carpark. Having found that Mrs Clark failed to remedy the risks posed by the play area, in light of the risks that pupils could access the staff carpark and leave the School premises, the panel found that this was a failure to take appropriate action, or to ensure appropriate action was taken to safeguard pupils.

The panel considered the facts found proven in relation to allegations 5 and 6. The panel considered that carrying out DBS checks; keeping DBS records; updating DBS checks; and keeping an up-to-date and accurate SCR, including all staff and external professionals working unsupervised with pupils, are essential to protect the safety and wellbeing of pupils in schools. This is a key part of safeguarding in schools and is a key part of the statutory guidance Keeping Children Safe in Education (KCSIE). These were ultimately Mrs Clark's responsibility, and she accepted this. The panel found that the facts found proven in relation to allegations 5 and 6 did amount to a failure to take appropriate action, and/or to ensure appropriate action was taken to safeguard pupils.

As regards allegations 11 and 12, the panel found these allegations proven as a matter of fact, but did not consider the facts proven to be material. As noted above, the way [REDACTED] was treated was consistent with other visitors to the School. The panel did note that there was evidence that records and control of visitor passes could have been better at the School. However, this was outside the remit of allegation 12, and the panel did not consider that the facts found proven in relation to allegations 11 and 12 amounted

to safeguarding failures. Accordingly, the panel found allegation 22 not proven in relation to allegations 11 and 12.

Accordingly, the panel found allegation 22 proven in respect of allegations 4, 5 and 6.

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.

The panel considered each allegation found proven in turn. In doing so, the panel had regard to the document Teacher misconduct: The prohibition of teachers, which is referred to as 'the Advice'.

The panel referred to its findings regarding allegations 8, 11 and 12 under allegations 21 and 22 above. In its findings relating to allegation 8, the panel considered that Mrs Clark's approach to employment and recruitment processes were not best practice and could have been better, but the panel did not consider this to be misconduct. Accordingly, the panel did not consider this amounted to unacceptable professional conduct, or conduct bringing the profession into disrepute. Further the panel did not consider that its findings of fact regarding allegations 11 and 12 amounted to misconduct. The panel considered that the School's procedures around records and control of visitor fobs could have been better but the panel did not consider that this amounted to unacceptable professional conduct on Mrs Clark's part, or conduct bringing the profession into disrepute.

In relation to allegation 14, the panel considered that Mrs Clark's decision to staff a reception class with a HLTA was a misjudgement. Mrs Clark had previously received advice that this was acceptable, provided the other class was taught by a qualified teacher and the two classes were taught as a unit. In the moment, while making operational decisions to deal with a difficult situation where two reception teachers were on maternity leave at the same time, Mrs Clark appeared to have forgotten this proviso, or decided that the arrangement was acceptable in the short term while the permanent reception teacher was on maternity leave. The panel concluded that this was not good practice, and Mrs Clark should have brought a supply teacher in to cover the class, but it did not reach the threshold of misconduct. The panel considered the Advice and concluded that this conduct did not fall significantly short of the standard of behaviour expected of a teacher. Further, the panel considered that Mrs Clark's conduct in relation to allegation 14 was not of such a serious nature that it amounted to conduct that may bring the profession into disrepute.

The panel had regard to the scope of allegation 19 which was limited. The panel did find that Mrs Clark employed Individual I without proper procurement processes. The panel would have expected some scoping of the work to be done, some form of oversight of the arrangement and an agreement on Individual I's fees, and how long the work would take. However, there was evidence that Mrs Clark checked the arrangement with the [REDACTED] and informed the [REDACTED]. In light of this, while it considered that a better procurement process should have been followed, the panel did not consider that this in itself amounted to unacceptable professional conduct or conduct bringing the profession into disrepute.

The panel was not satisfied that the conduct found proven in relation to each of allegations 8, 11, 12, 14 and 19 amounted to unacceptable professional conduct, or conduct bringing the profession into disrepute.

The panel was satisfied that the conduct of Mrs Clark, in relation to the facts found proved at allegations 1, some of the facts found proven at allegation 2 and the facts found proven at allegation 3, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mrs Clark was in breach of the following standards:

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

The panel considered that Mrs Clark's failure to attend the School, or to provide adequate supervision or support to the onsite staff during the first lockdown between March 2020 and May 2020, her failure to adequately inform staff as to her location during working hours or to be sufficiently available between September and November 2020; and her visits to Ramside Spa during working hours on three different occasions between around September 2020 to November 2020 amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Mrs Clark accepted that her attendance at a spa during work time could amount to serious professional misconduct. The panel agreed and also considered that her absence from the School and failure to provide adequate supervision and support during the first lockdown; and her failure to inform staff of her location and be sufficiently available during working hours over the turbulent period of the wider reopening of the School after the first lockdown placed a very difficult burden on the staff at the School. The panel had regard to the fact that the threshold for unacceptable professional conduct is a high bar but was satisfied that the bar was reached in respect of these allegations.

As regards the finding of fact under allegation 2, that Mrs Clark failed to keep adequate records, the panel did not consider that this in itself amounted to misconduct. Adequate records of a headteacher's whereabouts are a sensible way to ensure that staff know

where the headteacher is. However, the panel did not consider this to be a requirement such that failure to keep such records amounted to misconduct.

The panel was satisfied that the conduct of Mrs Clark, in relation to the facts found proved at allegations 4, 5, 6, and 22, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mrs Clark was in breach of the following standards:

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

Having concluded under allegation 22, that allegations 4, 5 and 6 amounted to failures by Mrs Clark to take appropriate action, or ensure appropriate action was taken to safeguard pupils, the panel was satisfied that that the conduct of Mrs Clark in relation to these allegations amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel considered that these were serious safeguarding failures which breached KCSIE and could have had serious consequences for the safety and wellbeing of pupils in the School. The panel considered that these safeguarding failures would seriously undermine public trust in the profession. The panel had regard to the fact that unacceptable professional conduct is a high bar, but was again satisfied that the bar was reached in respect of these allegations.

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

The panel found that none of these offences was relevant.

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, as the panel concluded that each of allegation 1, 2, 3, 4, 5, 6, and 22 amounted to unacceptable professional conduct, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

The panel considered all the evidence before it. The panel had regard to a clinical letter from Mrs Clark's GP on 25 August 2021. [REDACTED]. The panel considered the oral evidence and written statement of Mrs Clark, in which she explained the impact that these circumstances had on her health and judgment in 2019 and 2020. The panel was very sympathetic to the difficult personal circumstances which Mrs Clark was facing. However, on consideration of each allegation found proven individually, the panel concluded that there was insufficient medical evidence before it to conclude on the

balance of probabilities that each element of Mrs Clark's conduct as found proven in relation to allegations 1, 2, 3, 4, 5, 6, and 22 was a consequence of a medical condition.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

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

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

Having found the facts of allegations 1, 2, 3, 4, 5, 6, and 22 proved, the panel further found that Mrs Clark's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, 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 against Mrs Clark which involved failing to remedy risks to pupils posed by an unsafe playing area, failing to ensure that DBS checks were undertaken and/or records of checks kept for new staff and governors, and failing to ensure that the SCR was accurate, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Clark, which included the pupil safeguarding risks referred to above, and also findings which involved failing to attend school, adequately supervise and support on-site staff, and failing to be sufficiently available or to adequately inform staff of her location during working hours, was not treated with the utmost seriousness when regulating the conduct of the profession.

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

The panel considered whether there was a public interest consideration in retaining Mrs Clark in the profession. No doubt had been cast upon her abilities as an educator and there was evidence in the bundle that Mrs Clark had been a good headteacher and had led the School well until the events in 2020, which were the focus of the panel's findings of unacceptable professional conduct and conduct which may bring the profession into disrepute.

The panel noted that Mrs Clark's leadership of the School was praised by Ofsted in each inspection report during her time as Headteacher at the School, and that under Mrs Clark's leadership, the School's Ofsted rating improved from 'Satisfactory', to 'Good'. The panel also noted that there was evidence before it that Mrs Clark was a Local Leader in Education, shared knowledge and innovations with other schools in the Peterlee Partnership, and extended the School's provision to include provision for two-year-olds in 2015, when the local SureStart centre closed. The panel considered that Mrs Clark had made a valuable contribution to the profession in the past and could do so again. The panel considered that there was a strong public interest consideration in retaining Mrs Clark in the profession.

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

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mrs Clark. The panel took further account of the Advice, which at paragraph 39, 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;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;

The panel considered that these behaviours were relevant to this case. The panel considered that Mrs Clark's conduct was a serious departure from the personal and professional conduct elements of the Teachers' Standards, as explained in the panel's considerations in relation to unacceptable professional conduct and conduct which may bring the profession into disrepute above. However, when considering the possible range of serious departures from the Teachers' Standards, the panel found that Mrs Clark's conduct fell at the lower end of the range.

Further the panel considered, Mrs Clark's conduct as found proven did relate to safeguarding failures. However, whilst serious, the safeguarding failures in this case were predominantly administrative in nature and, in the panel's experience of the teaching profession, were at the lower end of the possible spectrum of misconduct seriously affecting safeguarding and well-being of pupils. The panel noted that the consequences of these safeguarding failures had the potential to be very serious. However, there was no evidence before the panel of any adverse consequences arising from Mrs Clark's misconduct in relation to safeguarding in this case. Further, the panel noted that there was a team of staff responsible for safeguarding at the School. While Mrs Clark as headteacher accepted responsibility for the safeguarding failings which were upheld, other individuals at the School were also responsible for ensuring DBS checks were carried out and records of those checks kept, and ensuring that the SCR was accurate.

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

There was evidence before the panel that some of Mrs Clark's actions were not deliberate. Mrs Clark's conduct in relation to ensuring DBS checks were done and records kept, and ensuring the accuracy of the SCR, were failures of omission rather than deliberate acts.

There was no evidence that Mrs Clark was acting under extreme duress, such as physical threats or significant intimidation to perform unlawful activities.

The panel did not consider that there was evidence that Mrs Clark demonstrated exceptionally high standards in both personal and professional conduct, but there was some evidence before the panel that some of Mrs Clark's achievements could be considered to have contributed significantly to the education sector, as outlined above in relation the panel's considerations of the public interest in retaining the teacher in the profession.

[REDACTED].

The panel also considered a substantial number of character references provided by Mrs Clark who described her good character and teaching abilities both before, and after, the conduct which was found proven. In particular, the panel noted the following:

- **Witness I, [REDACTED]:**
 - *"I found her [Mrs Clark] to be a very personable and 'sunny' person who was never confrontational to me or to any other member of staff... with children who had behaviour problems I found her both firm but fair and she was obviously well loved by the children who had a great affection for her."*
 - *"I was [REDACTED]... in this respect I found that Joanna's planning was detailed and thorough and she always responded positively to advice from myself and appropriate LEA staff."*
- **Witness J, [REDACTED]:**
 - *"She has set boundaries for the training that demonstrates mutual respect and values integrity. Joanna has demonstrated to me on numerous occasions that she both respects others and expects others to do the same. She is an incredibly supportive manager both personally and professionally."*
- **Witness K:**
 - *"She [Mrs Clark] was able to engage the audience and capture the children's imagination. Joanna's assemblies were inclusive to all abilities, ensuring her questioning was appropriate to all. Joanna observed my teaching on a regular basis. She gave valuable and constructive feedback, which I appreciated and kept building upon."*
 - *"All safeguarding practices were followed. If I had any safeguarding concerns, I would always go straight to Joanna and they were dealt with quickly and effectively, with feedback coming straight back to me to ensure that I knew the situation had been dealt with and any follow ups that needed to happen were completed."*

- **Individual L, [REDACTED]:**
 - *“Whilst Joanna was always not just an incredibly effective teacher, she was also a fantastic boss, having an open door policy to all staff members, from the cleaner to the Deputy.”*

The panel considered the extent to which Mrs Clark had shown insight and remorse for her conduct. The panel considered the fact that Mrs Clark had admitted most of the allegations which were upheld by the panel. The panel considered the oral evidence and written statement of Mrs Clark in which she expressed her disappointment at her actions. She said she, *“did not recognise myself”* and she was *“appalled I worked from home as much as I did”*. Mrs Clark accepted that she *“should have been present on site during this time to check things myself and ensure staff felt fully supported”* and that in hindsight, *“I realise I should have been much more open and transparent...”* and *“I was not sufficiently available”*. In relation to Witness A’s review of the SCR, Mrs Clark said she was *“horrified”* and acknowledged that, *“I have to take responsibility that procedures were not as they should have been...”* and, *“My procedures were not acceptable, I did not realise at the time and for that I am very sorry”*. The panel found that Mrs Clark demonstrated both insight and remorse.

The panel received legal advice that insight was concerned with future risk of repetition of misconduct. The panel found that Mrs Clark had demonstrated a fair and objective understanding of the nature and gravity of her misconduct and had demonstrated steps that she had taken, including additional safeguarding training, to avoid the risk of a repetition of such conduct in the future.

There was also evidence before the panel that Mrs Clark had learnt from her experiences and had already put into practice in [REDACTED], safer recruitment, leadership and safeguarding practices, which were lacking in relation to her conduct as found proven in this hearing. The panel considered the written statement of Individual M [REDACTED], who said that Mrs Clark had attended their Level 3 Safeguarding Combined Adults and Children’s course in July 2022 and had done their Advanced Level 4 course in October 2024. Individual M said that Mrs Clark *“followed all the correct safer recruitment processes for her team, ensuring DBS checks, right to work documents and checking for employment references. She also encourages her team to upskill their knowledge of safeguarding and our [REDACTED] policies and procedures to ensure that they are equipped with the tools to deal with any safeguarding disclosures on their courses.”*

The panel also considered the written statement of Individual N, [REDACTED], who said he was impressed by Mrs Clark’s leadership skills and people management. He described Mrs Clark as being supportive and approachable. Individual N described Mrs Clark as having a caring and empathetic approach with her team. He explained that Mrs Clark was a regional trainer for the [REDACTED] before being promoted to a

[REDACTED]. He also confirmed that Mrs Clark had checked his own references and Advanced DBS check before he started.

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 sanction without unacceptably compromising the achievement of the relevant objectives.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviours were at the less serious end of the possible spectrum and, having considered the public interest in retaining Mrs Clark in the profession, the extensive mitigating factors that were present, and the extent of Mrs Clark's insight, the panel determined that a recommendation for a prohibition order would not be proportionate in this case. The panel considered that a prohibition order, even with a minimum review period of two years, would not produce any material change or serve any useful purpose. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

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

In this case, the panel has found some of the allegations not proven (including allegations 7, 9, 10, 13, 15, 16, 17, 18, 20 and 21), and found that some allegations do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute (including allegations 8, 11, 12, 14 and 19). I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mrs Joanna Clark should not be the subject of a prohibition order. The panel has recommended that the

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

In particular, the panel has found that Mrs Clark 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 and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mrs Clark involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

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

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed:

“In the light of the panel’s findings against Mrs Clark which involved failing to remedy risks to pupils posed by an unsafe playing area, failing to ensure that DBS checks were undertaken and/or records of checks kept for new staff and governors, and failing to ensure that the SCR was accurate, there was a strong

public interest consideration in respect of the safeguarding and wellbeing of 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 that it found that “Mrs Clark demonstrated both insight and remorse.” The panel has said that Mrs Clark “had demonstrated a fair and objective understanding of the nature and gravity of her misconduct and had demonstrated steps that she had taken, including additional safeguarding training, to avoid the risk of a repetition of such conduct in the future.” I have therefore given this element weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed:

“Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Clark, which included the pupil safeguarding risks referred to above, and also findings which involved failing to attend school, adequately supervise and support on-site staff, and failing to be sufficiently available or to adequately inform staff of her location during working hours, was not treated with the utmost seriousness when regulating the conduct of the profession.”

I am particularly mindful of the finding of safeguarding failures in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mrs Clark herself. The panel has commented that “Mrs Clark had made a valuable contribution to the profession in the past and could do so again. The panel considered that there was a strong public interest consideration in retaining Mrs Clark in the profession.” In particular, the panel has noted that “Mrs Clark’s leadership of the School was praised by Ofsted in each inspection report during her time as Headteacher at the School, and that under Mrs Clark’s leadership, the School’s Ofsted rating improved from ‘Satisfactory’, to ‘Good’.” The panel has also noted that it “considered a substantial number of character references provided

by Mrs Clark who described her good character and teaching abilities both before, and after, the conduct which was found proven.”

A prohibition order would prevent Mrs Clark 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 that “whilst serious, the safeguarding failures in this case were predominantly administrative in nature and, in the panel’s experience of the teaching profession, were at the lower end of the possible spectrum of misconduct seriously affecting safeguarding and well-being of pupils.”

I have also placed considerable weight on the panel’s comments on mitigating factors. These include:

“There was evidence before the panel that some of Mrs Clark’s actions were not deliberate. Mrs Clark’s conduct in relation to ensuring DBS checks were done and records kept, and ensuring the accuracy of the SCR, were failures of omission rather than deliberate acts.”

“[REDACTED].”

“The panel found that Mrs Clark had demonstrated a fair and objective understanding of the nature and gravity of her misconduct and had demonstrated steps that she had taken, including additional safeguarding training, to avoid the risk of a repetition of such conduct in the future.”

“There was also evidence before the panel that Mrs Clark had learnt from her experiences and had already put into practice in [REDACTED], safer recruitment, leadership and safeguarding practices, which were lacking in relation to her conduct as found proven in this hearing.”

I have agreed with the panel that there are extensive mitigating factors present in this case and that there is a strong public interest in retaining Mrs Clark in the profession. 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 'D Oatley', with a large, sweeping flourish at the end.

Decision maker: David Oatley

Date: 2 January 2025

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