



National College for  
Teaching & Leadership

# **Mrs Susan Margaret Stuart: Professional Conduct Panel outcome**

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

**October 2014**

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## **Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State**

<b>Teacher:</b>	Mrs Susan Margaret Stuart
<b>Teacher ref no:</b>	64/42640
<b>Teacher date of birth:</b>	4 July 1946
<b>NCTL Case ref no:</b>	0010562/64/42640
<b>Date of Determination:</b>	16 October 2014
<b>Former employer:</b>	Greenfields Community Primary School, Kettering

### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 13 – 16 October 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mrs Susan Margaret Stuart.

The Panel members were Mr Martin Greenslade (Lay Panellist – in the Chair), Mrs Bridget Evans (Teacher Panellist) and Mr Peter Cooper (Teacher Panellist).

The Legal Adviser to the Panel was Mrs Luisa Gibbons of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Ms Melinka Berridge of Kingsley Napley Solicitors.

Mrs Stuart was present and was represented by Mr Andrew Faux, Counsel of Cornwall Street Chambers.

The hearing took place in public and was recorded.

## B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 26 July 2014.

It was alleged that Mrs Stuart was guilty of unacceptable professional conduct, in that:

Whilst employed at Greenfields Community Primary School, Kettering:

1. She did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically:
  - a The school prospectus had not been updated since 2005;
  - b The child protection policy dated 2 December 2009 had the incorrect school name, and did not state the names of the designated officers;
  - c Teacher performance management was inconsistent and / or incomplete;
  - d There was no Single Central Record of pre-employment checks being completed to the required standard;
  - e The behaviour policy had not been updated until June 2010, despite being directed on 22 March 2010 to review and update the policy;
  - f A restraint policy had not been introduced, despite being directed on 22 March 2010 to agree and ratify a restraint policy with the Governing Body.
- 2 She behaved in an inappropriate manner towards her former Colleague A, in that:
  - a On 19 May 2010, spoke to Colleague A harshly, when he refused to relocate a piano at her request;
  - b On 17 June 2010, spoke to Colleague A harshly, when he disagreed with her about whether she was legally entitled to contact a member of staff, Colleague C, whilst she was on sickness leave.
- 3 She behaved in an inappropriate manner towards her former Colleague B, in that:
  - a On an unknown date in April 2010, she directed Colleague B to enquire with staff if they wanted an unused item of furniture and then reprimanded Colleague B in front of another member of staff for the actions Colleague B took in respect of that item;
  - b On an unknown date, she directed Colleague B to distribute “pay and benefits” letters to staff and to obtain salary information from individual members of staff;
  - c On an unknown date, she pressured Colleague B to write a letter alleging Colleague D was incompetent;

d On unknown dates in April 2010, on more than one occasion she asked Colleague B to contact a member of staff, Colleague C whilst she was on sickness leave.

4. She behaved in an inappropriate manner towards her former Colleague C, in that:

a On unknown dates, she failed to give Colleague C adequate support or guidance to enable her to effectively fulfil her role;

b On an unknown date, she pressured Colleague C to change the start time of her working hours from 8:45am to 8:30am.

5. She behaved in an inappropriate manner towards Child A, in that on unknown dates in 2008, on at least two separate occasions she disciplined Child A by making her sit outside her office for a lengthy period of time whilst she was visibly distressed.

6. She behaved in an inappropriate manner towards Child B, in that on an unknown date, she disciplined Child B by making him sit outside her office for a lengthy period of time.

7. She behaved in an inappropriate manner towards Child C, in that on an unknown date, she spoke harshly to Child C when she had not eaten her lunch;

8. She failed to follow the correct procedure for requesting leave during term time in that she took leave without authorisation on 1 and 2 September 2010.

Mrs Stuart denied both the particulars of the allegation and that she was guilty of unacceptable professional conduct.

## **C. Preliminary applications**

Whilst there was no formal application for the adult witnesses in this case to be anonymised, there has been a request that they be referred to as Colleagues, A, B, C and E during the hearing. The Panel did not accede to this, since the Panel did not consider that there were sufficient grounds for those witnesses not to be named during the hearing, such as to interfere with the usual position that witnesses identity is not concealed. The Panel did not consider the request to be in the interests of justice. However, as is usual in these proceedings, Colleagues A, B, C and E will not be referred to by name in the written decision published on internet. The names of all children referred to in this case were anonymised, as is the usual practice in these proceedings.

There was also an application by the Presenting Officer to amend the dates stated in the allegations 1e and 1f, of the Notice of Proceedings, from 10 April 2010 to 22 March 2010, to accord with the date of a letter sent by the Vice Chair of Governors to Mrs Stuart. The application was not opposed by Mrs Stuart's representative. The Panel acceded to the request as it had no impact on the seriousness of the allegation, nor would it have affected how Mrs Stuart's case had been prepared.

## D. Summary of evidence

### Documents

In advance of the hearing, the Panel received a bundle of documents (“the Panel Bundle”) which included:

Section 1: Chronology and anonymised pupil list	pages 1 – 4
Section 2: Notice of proceedings and response	pages 5 – 11
Section 3: National College for Teaching and Leadership Witness Statements	pages 12 – 28a, 29 - 43
Section 4: National College for Teaching and Leadership Documents	pages 44 – 477
Section 5: Teacher Documents	pages 478 – 591

The Panel at the parties request deleted the original pages 26 – 28 of the Panel Bundle, namely the unsigned witness statement of Colleague C and replaced it with her signed statement at pages 26 to 28a.

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

On day 3 of the hearing, an application was made by Mrs Stuart’s representative to admit documents relating to the circumstances of the departure of a staff member at the School, on the basis that it was relevant to the credibility of Colleague A. The Presenting Officer had no objection to the admission of the documents. The documents were admitted on the basis that it was fair to admit them, and that they were reasonably considered to be relevant to the case. The documents were paginated as pages 592 – 598. The Panel Members attention was drawn to the relevant sections of these documents by Mr Stuart’s representative, and these were read by the Panel.

### Witnesses

The Panel heard oral evidence from the following witnesses, called by the National College: Colleague A (the Site Supervisor of the School at the relevant time); Colleague C (who was the Office Manager/Bursar of the School at the relevant time); Colleague B (who was a Teaching Assistant at the School at the relevant time); Colleague E (a Learning Support Assistant at the relevant time); and the Senior Human Resources and Change Advisor at the Local Authority.

The Panel also heard oral evidence from Mrs Stuart.

## **E. Decision and reasons**

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents that constituted the Panel Bundle in advance of the hearing and also read, as directed, the excerpts of the additional documents produced on Day 3 of the hearing.

### Summary of Evidence

Mrs Stuart took up the post of Acting Head Teacher at Highfield School (as the School was then known in September 2002, and became the permanent Head Teacher in 2004. In 2010, an investigation was carried out into a number of allegations, and although the matter did not proceed through the School's Disciplinary Procedures, a number of recommendations were made regarding the School's Behaviour and Restraint Policy and regarding staff training.

In July 2010, a formal complaint against Mrs Stuart was raised by Colleagues A, B, C and E under the school's Anti-Harassment, Discrimination and Bullying at Work Policy. It was decided that the concerns raised would be considered under the School's Disciplinary Procedure. A meeting was convened to suspend Mrs Stuart from her employment on 1 September 2010, but Mrs Stuart was absent from the School and she was suspended in her absence.

During the course of the School's investigation, further allegations came to light regarding Mrs Stuart's absence from the School on 1 September 2010, without authorisation; allegations regarding whether Mrs Stuart had ensured that the School policies and procedures were up to date; and allegations regarding Mrs Stuart's treatment of a number of pupils.

A disciplinary hearing was convened on 18 and 19 October 2011 and Mrs Stuart was dismissed with effect from 24 October 2011. The current allegations arise from the matters considered during those disciplinary proceedings.

## **Findings of Fact**

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

**1a Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically the school prospectus had not been updated since 2005;**

Under the Education (School Information) (England) Regulations, 2002, the Governing Body is required to publish a school prospectus on an annual basis. Mrs Stuart accepted in oral evidence that she had a responsibility to update the school prospectus on an annual basis. She stated that this had been done and that the prospectus was in Colleague C's office, on her computer. She stated that during the disciplinary meeting, the Chair of Governors had found a copy of the prospectus in his welcome pack and that he had been so embarrassed by finding it, it was never handed over.

The notes of the disciplinary meeting state that the Chair of Panel produced a Prospectus from his batch of induction papers, which was examined by the disciplinary panel and found to be out of date. Mrs Stuart stated in oral evidence that the Chair of Governors may have been sent a pack with an outdated prospectus.

The Panel saw no evidence that the school prospectus had been updated. Colleague C stated she could not recall when she had updated the prospectus and that she doubted it was up to date. The prospectus discovered during the disciplinary meeting had been out of date; Colleague C had doubted the prospectus was kept up to date and no up to date prospectus was available to the Panel. The Panel considered it more likely than not that the prospectus had not been updated. Whilst this is the responsibility of the Governing Body, the Panel considered that as Head Teacher, Mrs Stuart had a duty to ensure that the statutory obligation was complied with.

The Panel found this allegation proven.

**1b Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically the child protection policy dated 2 December 2009 had the incorrect school name, and did not state the names of the designated officers;**

The Panel Bundle contains a copy of the Child Protection Policy signed by Mrs Stuart on 2 December 2009 which bears the previous name of the school and contains no names of the designated officers.

Mrs Stuart stated that she had a note in her diary for Colleague C to update the title of the School in the Child Protection policy, but that this had not been done because of Colleague C's absence from School. She stated that the Child Protection Policy had been updated and ratified on 10 March 2010 and that this had been minuted in the Governing Body meeting minutes. Various Governing Body meeting minutes were produced to the Panel, but this did not include these specific minutes. She stated that

these minutes could be produced but they were not provided in evidence to the Panel. She stated that the Child Protection Policy had been checked in May 2010 and slight additions made by the Deputy Head Teacher, which would have been typed and presented to the Governing Body the following term.

In the absence of any evidence that the Child Protection Policy had been updated, the Panel concluded that the Policy had not been updated appropriately. The Panel considered it important for the Policy to bear the names of the designated officers so that there was clarity as to whom safeguarding issues should be reported.

This allegation was found proven.

**1c Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically teacher performance management was inconsistent and/ or incomplete;**

During the disciplinary investigation the staff members' personnel files were inspected. It was identified that three members of teaching staff had no appraisals on file; another class teacher had one appraisal on file; the Deputy Head Teacher had appraisals on file dated 2003, 2004, 2007, 2008 and 2009; another teacher had one appraisal on file dated 2004; and Colleague D had one appraisal on file dated October 2008.

The Education (School Teacher Performance Management)(England) Regulations 2006 state that the Head Teacher should be the reviewer for all other teachers in the School although those duties may be delegated to the teacher's line manager. The Head Teacher has a duty to decide whether the person to whom the responsibility has been delegated is no longer suitable to perform those duties, and if so to carry out the review herself, or to delegate them to another teacher. There is also a duty to carry out the performance management review on an annual basis.

The Panel saw the School Performance Management Policy dated 3 February 2010. This stated that the policy covered all teachers except: school teachers in their induction year; school teachers employed for less than one year; and school teachers employed centrally by the local education authority. It described an annual review meeting taking place.

In evidence, Mrs Stuart admitted that she was unaware that part-time members of staff should have had performance management carried out, but that all teachers had been observed by her and consultants from the local council. She stated that she had to accept that performance management was incomplete between 2007 and 2010.

The Panel accepted that performance management in the form of an annual appraisal of teaching staff had not taken place for all teaching staff.

This allegation was found proven.

**1e Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically the behaviour policy had not been updated until June 2010, despite being directed on 22 March 2010 to review and update the policy;**

The Panel has seen a letter dated 22 March 2010 addressed to Mrs Stuart which made a number of recommendations following an investigation which had been carried out into a number of allegations. Those recommendations were that, as a matter of urgency, the School's behaviour policy should be reviewed and updated with support from the Council School Improvement Services. Particular attention was required as to how the policy is brought to the attention of staff, parents and pupils; how behaviour is monitored, recorded and by whom; and how parents should proceed if they have a complaint about the management or behaviour.

The Panel has also seen the behaviour policy that was located at the School at the time of Mrs Stuart's suspension. This was originally written on October 2002, but had a handwritten amendment to state that it had been changed on 22 June 2010. The only other handwritten amendment was in respect of the "Behaviour Sanctions", where "your name will be sent to the Head Teacher" was crossed through and replaced with "and will sit in the corridor near the Head Teacher's office or in the corridor near the classroom". Mrs Stuart stated that this had been altered, following the recommendations, but had not been typed up as Colleague C had been absent from the School. She stated that this amendment had been discussed with the staff.

The Panel did not consider that the amendments made had addressed the specific points referred to in the recommendations, and that Mrs Stuart had not given the proper consideration to the policy with the urgency or priority that the recommendations demanded. Although Mrs Stuart stated she had not been promptly contacted by the Council that were supposed to provide support, the Panel had the view that the recommendations had been addressed to Mrs Stuart and that it had been her responsibility to ensure that the policy review took place, as envisaged.

This allegation was found proven.

**1f Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically a restraint policy had not been introduced, despite being directed on 22 March 2010 to agree and ratify a restraint policy with the Governing Body.**

The letter of 22 March 2010 addressed to Mrs Stuart also recommended that a restraint policy be agreed and ratified with the Governing Body, and to be referred to in the School's behaviour policy identifying when and by whom the "use of force" might be applied. It also stated that all staff were to undergo appropriate behaviour management and restraint training as a matter of urgency.

No restraint policy was located in the school following Mrs Stuart's suspension. Mrs Stuart has stated that there was no restraint policy in the School as restraint was not used. In oral evidence, Mrs Stuart clarified that she had not been aware that restraint was being used in respect of Child B. She stated that following receipt of the recommendation, which arrived after the Easter holidays, she had contacted a number of bodies to arrange restraint training but that she had not been able to find anyone able to provide it by July 2010. She referred to the particularly difficult circumstances that term with Colleague C being absent from the office.

The Panel noted that Mrs Stuart claimed to have been resourceful in making requests of other Head Teachers for administrative support whilst Colleague C was away. Likewise, had Mrs Stuart given this recommendation the importance that it warranted, she could have made similar enquiries in respect of the restraint policy. The Panel considered that Mrs Stuart had not given the proper consideration to restraint training or to a restraint policy that the recommendations required.

The Panel therefore found this allegation proven.

**3b You behaved in an inappropriate manner towards your former Colleague B, in that on an unknown date, you directed Colleague B to distribute 'pay and benefits' letters to staff and to obtain salary information from individual members of staff;**

Colleague B gave evidence that the box of letters had been received, addressed to Mrs Stuart, marked confidential and that she had been asked to distribute the sealed envelopes to the staff. Colleague B agreed that there was nothing inappropriate about her placing the sealed envelopes containing the confidential information in the staff members' pigeon holes. However, she also described a single form which had to be completed by each member of staff with their salary and pay scale. She stated that she was asked by Mrs Stuart to take this to members of staff and that they complained as not only would Colleague B be able to see the information, each member of staff would be able to see the information other staff had completed on the form. She stated that she returned to Mrs Stuart to explain this, and that Mrs Stuart had said that she had to complete the task as it was urgent. She stated that she spoke with the visiting bursar, who agreed that it was inappropriate for Colleague B to undertake this task and that she had returned the form to Mrs Stuart's desk. However, on three occasions, Colleague B stated that the document was returned to her for her to do.

Mrs Stuart stated that she asked Colleague B to deliver the pay review letters as they were in sealed envelopes, and that she was asked to advise the recipients, that if any of them wanted to appeal against their grading, they should advise Mrs Stuart of their salary.

The Panel Bundle contains instructions provided to Head Teachers regarding the letters. This stated that inside the box there would be a sheet for recording any errors that employees may raise about their letters, eg current spinal point, name etc. The Panel considered that if Colleague B had just been asked to deliver the sealed letters, she would not have been able to describe this sheet. The Panel therefore considered her account to be credible and that it was more probable than not that she had been asked to obtain salary information from colleagues. The Panel considered this to be inappropriate.

The Panel found this allegation proven.

**3d You behaved in an inappropriate manner towards your former Colleague B, in that on unknown dates in April 2010, on more than one occasion you asked Colleague B to contact a member of staff, Colleague C whilst she was on sickness leave.**

Colleague B gave evidence that when Colleague C was on sickness leave, Mrs Stuart asked her on numerous occasions on a weekly basis to contact Colleague C, despite having been told by Colleague C's husband and children not to contact Colleague C. Colleague B stated that she had felt uncomfortable about this and it got to the point where she informed Mrs Stuart that she had attempted to telephone Colleague C, even if she had not. Colleague B stated in oral evidence that Mrs Stuart was directing her to call. Colleague B denied that she had needed to call Colleague C to obtain information to assist her in taking over Colleague C's duties in the office.

Mrs Stuart stated that when Colleague C had not provided her keys and passwords to the School, after a few days she contacted the Council for advice. She stated that she was advised that Colleague C could be contacted in order to run the School but that she should ask someone else to make the contact on her behalf. Mrs Stuart stated that it was incorrect that she had asked Colleague B to make the contact on numerous occasions on a weekly basis. She stated that there had been only two occasions when she had directed that contact be made; the first to obtain Colleague C's keys and passwords and the second to find out where the Foundation Pupils' Booklet was located as it needed to be updated.

Colleague C described her husband and children having been contacted whilst she was on sick leave, and that her husband would speak to her following the calls. She described having been asked a few times in relation to a query that she was unable to answer.

The Panel formed the view that it was likely that Mrs Stuart directed Colleague B to contact Colleague C. Mrs Stuart was entirely reliant on Colleague C in respect of all IT support as she had no IT skills at all. In these circumstances, the Panel considered that Mrs Stuart would have found it difficult in Colleague C's absence to locate items that were needed. The Panel considered Colleague B to be a credible witness, consistent in

her accounts. The Panel, therefore, found it more probable than not that Colleague B's account of Mrs Stuart pressuring her to contact Colleague C were correct.

This allegation was found proven.

#### **4a You behaved in an inappropriate manner towards your former Colleague C, in that on unknown dates, you failed to give Colleague C adequate support or guidance to enable her to effectively fulfil her role;**

The Panel heard Colleague C's description of her duties which were extensive. The extent of these duties was exacerbated by Mrs Stuart's absence of IT skills. She described Mrs Stuart placing pressure on her to carry out Mrs Stuart's demands over and above Colleague C's other duties.

Mrs Stuart stated that Colleague C had excellent people skills but that she was not as competent in her administration skills. She stated that there had been no requirement to carry out an appraisal of her. She stated that Colleague C took no notice of her attempts to assist her in prioritising her work and that she was entrenched in her methods of working. Mrs Stuart stated that there had been only one conversation about Colleague C's priorities and her difficulty in coping. She stated that she had begun to use post it notes to indicate what was a priority. She stated that Colleague C was often distracted by others coming into the office. She stated that Colleague C had had days off in lieu of overtime, that she had attended courses and had been permitted leave in term time. Colleague C disputed the number of days off in lieu that Mrs Stuart stated she had had. Mrs Stuart told the Panel about additional administrative support, particularly with regard to administrative support that had been in place until towards the end of 2009, but that there had been some turnover of staff providing this support. Mrs Stuart stated that Colleague C had stated that she had not wanted anyone to replace that support in 2010, as she had been fed up of training staff that then left.

The Panel found Colleague C to be a credible witness. She spoke with bitterness about the lack of support and pressure placed upon her. She stated that Mrs Stuart had told her that she did not have the right skills, and that she should just prioritise. The Panel did not consider that the administrative support that Mrs Stuart had described would have been sufficient to alleviate the demands on Colleague C. In particular, the additional requirements of completing online documentation, including the School Evaluation Form and other documents would have placed ever increasing demands on Colleague C's time.

The Panel had the impression that Mrs Stuart never had a proper discussion with Colleague C about Colleague C's workload, the pressure she was under and the support she required, and that each of her demands was dealt with as singular issues. The Panel considered that Colleague C had not been given appropriate support.

This allegation was found proven.

**5 You behaved in an inappropriate manner towards Child A, in that on unknown dates in 2008, on at least two occasions you disciplined Child A by making her sit outside your office for a lengthy period of time whilst she was visibly distressed;**

In her written statement, Colleague B described an incident when Child A was made to sit on the floor outside her office for approximately four hours. She described that Child A was crying a lot and that whenever Child A stopped crying, Mrs Stuart would come out of her office and shout at Child A, causing Child A to begin crying again. She also stated that she had noticed that Child A had wet herself during this time. She stated that, following this incident, the nurse confronted Mrs Stuart about Child A and had asked if Colleague B would support her. Colleague B stated that she could not, since she feared for her job. She stated that the nurse confronted Mrs Stuart alone. Colleague B stated that she felt particularly bad about the incident as she felt that she had let Child A down.

In oral evidence, Colleague B stated that she could not be completely certain that the occasion when the nurse confronted Mrs Stuart was on the same occasion that she had described Child A sitting outside Mrs Stuart's office for four hours. However, she was confident that the occasion had happened in the morning, as she was doing one to one sessions with pupils and was walking back and for the corridor collecting pupils. The Panel noted that Colleague B appeared to be genuinely troubled that she had not stuck up for Child A on that day, and that she had been too intimidated to do so.

Colleague B was asked why she had allowed her grandchildren to go to the School if she was so concerned about the discipline of the children. The Panel was satisfied by Colleague B's answer that this was a matter of convenience, and that Colleague B was content that she was present in School to protect them.

In a written statement, Colleague E gave evidence that on one occasion in approximately October or November 2008, Child A had refused to attend a music assembly and was sent to sit outside Mrs Stuart's office. Colleague E stated that she had been in the library close to Mrs Stuart's office and had noticed Child A was upset, sobbing and had worked herself up into such a state that she was nearly sick. She stated that Mrs Stuart had kept opening the door, saying to the child "stop making that noise". She stated that Child A had been there for approximately an hour and a half.

Colleague E stated that on another occasion, Child A had informed her that she had been made to sit outside Mrs Stuart's office and had wet herself, but that she had not been present on that occasion.

In oral evidence Colleague E was asked about a note of a meeting Colleague E had attended as part of the disciplinary investigation which implied that Child A had been upset going into the hall and that was when Mrs Stuart had said "stop making that noise". Colleague E stated that she had not been present when Child A had been going into the

hall for the music assembly, and that she had not signed this note to verify it was correct at the time.

Colleague E was asked why this incident had stood out in her mind and Colleague E stated it was because Child A was such a vulnerable child.

Mrs Stuart gave evidence that on the occasion that Child A was brought to her office during music assembly, she would have been outside her office for about 55 minutes. She stated that Child A was having a temper tantrum and that every time she left her office, Child A would shout and scream louder. In oral evidence Mrs Stuart explained that Child A needed to learn that having a temper tantrum would not get her what she wanted.

Mrs Stuart denied that Child A had been outside her office one morning for a period of four hours. She described an occasion when the School Nurse had been furious with her, which was one afternoon when Child A had been outside her room for a maximum of 60 minutes. She stated that on this occasion, when Child A had calmed down she was allowed back to class.

In oral evidence, Mrs Stuart stated that it was not her that required children to be brought outside her office; teachers and learning support assistants brought them. She stated that the corridor was a nice environment, with new carpet, displays of books and a Noah's Ark mural. She described them being safe there, as they were not being left on their own.

The Panel considered that it was inappropriate for Child A to be required to sit outside Mrs Stuart's classroom for a period of 55 or 60 minutes, on her own time estimate. It was clear to the panel that Child A had been visibly distressed during this time.

This allegation is therefore found proven.

## **7 You behaved in an inappropriate manner towards Child C, in that on an unknown date, you spoke harshly to Child C when she had not eaten her lunch.**

Colleague B gave evidence that Child C had special dietary requirements. She stated that when her lunch had arrived, it was so revolting that Colleague B had telephoned Child C's mother and asked her to bring in a homemade lunch for Child C. She described that as she was walking Child C to collect the lunch from her mother, Mrs Stuart had intervened. She stated that Mrs Stuart had said to the child, "You will eat it. Be grateful for what you have got", and that this had made Child C cry. She stated that Mrs Stuart had told her that she should not have contacted Child C's mother and that it was not for Colleague B to make that decision.

Colleague B also stated that when Child C's mother had arrived at the School, Mrs Stuart had told her not to allow the mother into the School, until she was in her office.

Colleague B said that she had had to cover up that Mrs Stuart had caused her child to cry. Colleague B also stated that Child C's mother wrote a letter of complaint to the School Governors regarding the incident.

Mrs Stuart denied having spoken to Child C in this way, and that Child C had been upset over the fuss being made about her lunch. She denied having said that Colleague B should not let the mother in until she was in her office. She also denied that she was not aware any complaint had been made by Child C's mother, and that if she had wanted to make a complaint, it would have been around being unable to accompany her daughter into the dining room.

In oral evidence, Mrs Stuart stated that she did not chastise Child C over her lunch, and that she had said to Colleague B, that if such a thing happened again, next time, Mrs Stuart would call the mother. She stated that she did not remember saying that Colleague B should wait until Mrs Stuart had returned to her office before allowing the mother into the School. However, Mrs Stuart stated that it was her policy for parents to make an appointment to see her in her office, since she had previously experienced an incident when a parent had come into her office swearing at her, and another parent had thrown a chair at a member of staff in a corridor.

The Panel formed the view that Colleague B gave a credible account of this incident. The Panel observed her demeanour and body language whilst giving evidence and believed this to be an honest account. The Panel noted that Colleague B had endeavoured to cover up Mrs Stuart's actions and thought that she would not have done this if her motivation had been to cause trouble for Mrs Stuart.

The Panel therefore found it more probable than not that this incident had happened and found this allegation proven.

This allegation was found proven.

## **8 You failed to follow the correct procedure for requesting leave during term time in that you took leave without authorisation on 1 and 2 September 2010.**

Mrs Stuart accepted that she was not present in School on the first days of the School year, on 1 and 2 September 2010, which were INSET days. Mrs Stuart accepted that she was in Portugal on those days, attending her son's wedding. She provided evidence that she had planned to inform the Governors of her arrangements at the Governors' meeting set for 28 June 2010, but the meeting had been inquorate and was cancelled. Mrs Stuart accepted that she should have tried to call the Chair of Governors, but that she had forgotten as the Summer term was so hectic. She stated that the Deputy Head Teacher had been aware that Mrs Stuart would not be in attendance on these days. In her written statement, Mrs Stuart did not accept that she had taken two days

unauthorised leave, saying that the two days were offset by two days on which Mrs Stuart had already worked on non-working days.

In oral evidence, Mrs Stuart stated that she had intended to work an additional two of her non-working days, but that she had been unable to do so, since she had been suspended from her role. Mrs Stuart also stated that she had understood that it was unnecessary to attend school on INSET days if the requisite amount of training had been undertaken during the previous academic year, and that the staff were constantly undergoing training at weekly staff meetings. Mrs Stuart also stated that she was not contracted to work specific days, but was required to work a four day week. She stated that it was her usual practice to take Fridays as her non-working day, and that any exception to this would appear in the School bulletin.

The Senior Human Resources Advisor from the local council gave evidence that even if it had been Mrs Stuart's intention to change her working patterns, she should have had a discussion with the Governing Body, whether it be with the Chair, the Vice Chair or someone from the Finance Committee. She stated that this was necessary in order that arrangements could be made for appropriate cover for the School.

The Panel considered that the first two days of the School year were very important in setting the tone for the forthcoming academic year. The Panel considered that the Senior Human Resources Advisor had given a valid reason as to why Mrs Stuart should have brought her intention to be away from School to the attention of the Governing Body. The Panel therefore finds it more probable than not that Mrs Stuart failed to follow the correct procedure for her two days absence from the School, even if she had already, or intended to work on two of her non-working days.

*We have found the following particulars of the allegations against you not proven, for these reasons:*

**1d Whilst employed at Greenfields Community Primary School, Kettering, you did not ensure that statutory school policies or procedures were either up-to-date or implemented, specifically there was no Single Central Record of pre-employment checks being completed to the required standard;**

Mrs Stuart stated that there had been a centralised record kept by Colleague C on her computer. In oral evidence, Colleague C, the Office Manager/Bursar stated that the Single Central Record of pre-employment checks did exist in the School at the relevant time, and that had she been asked during the disciplinary investigation about this, she could have provided it. The Panel therefore found it more probable than not that the required Single Central Record did exist.

The Panel therefore found this allegation not proven.

**2a You behaved in an inappropriate manner towards your former Colleague A, in that on 19 May 2010, spoke to Colleague A harshly, when he refused to relocate a piano at your request;**

The evidence of Colleague A and Mrs Stuart was in direct conflict in respect of this allegation. Colleague A stated that Mrs Stuart had become angry when he said that he would not be able to move the piano on that day, because he had to finish cutting the grass and attend a Governors' meeting. He stated that she provided no explanation as to why she had needed the piano moving immediately, and that she had told him that he should not bring his "baggage into School". He described that the situation resulted in them both shouting at each other.

Mrs Stuart stated that Colleague A had refused to move the piano, and had not given any reasons why he couldn't do it. She stated that she did refer to him not bringing his "baggage" into the workplace, and that he may have taken this in an offensive way. She stated that Colleague A acted very aggressively towards her, which was why she had sought advice from the Human Resources Advisor at the Council.

The Panel did not find Colleague A to be a credible witness. When asked how long it had taken to move the piano the following week, Colleague A said 15 – 30 minutes, and then said he would "split the difference", at 20 minutes, which the Panel considered to be unlikely since the piano was on wheels. The Panel considered that he had exaggerated his account in this respect and this affected their view of his credibility. Although Colleague A's description of Mrs Stuart's manner was corroborated by other witnesses, there was no one else present on this occasion to witness the event.

Mrs Stuart's representative produced minutes of Governors' meetings. These contradicted Colleague A's evidence that he did not recall the circumstances of Colleague D's departure having been discussed by the Governing Body, as he was present when such matters were discussed. This evidence did not significantly impact on the Panel's view, as the Panel has already considered Colleague A to lack credibility.

Colleague A accepted that he "gave as good as he got" and the Panel believed that this probably reflected the reality of the situation, and in the circumstances the Panel did not consider that Mrs Stuart had acted in an inappropriate manner.

This allegation was therefore found not proven.

**2b You behaved in an inappropriate manner towards your former Colleague A, in that on 17 June 2010, spoke to Colleague A harshly, when he disagreed with you about whether you were legally entitled to contact a member of staff, Colleague C, whilst she was on sickness leave.**

For the reasons stated above, the Panel considered that Colleague A lacked credibility. The Panel therefore did not accept his account of this conversation.

This allegation was therefore found not proven.

**3a You behaved in an inappropriate manner towards your former Colleague B, in that on an unknown date in April 2010, you directed Colleague B to enquire with staff if they wanted an unused item of furniture and then reprimanded Colleague B in front of another member of staff for the actions Colleague B took in respect of that item;**

Mrs Stuart's explanation was that she had intended to mean for Colleague B to enquire whether any other staff member wanted the bookcase in their classroom. The Panel considered it entirely feasible that Colleague B misinterpreted that request to mean that the bookcase was no longer required.

Colleague B stated that there had been no audit list at the School of the School's property and that the bookcase had been brought in by another member of staff. Even if the bookcase been donated to the School, it would have become the School's property.

The Panel formed the view that Colleague B felt undermined when Mrs Stuart prevented the bookcase being removed from the School, and that Colleague B may have been upset by this. However, the Panel did not consider that Mrs Stuart had acted in an inappropriate manner.

**3c You behaved in an inappropriate manner towards your former Colleague B, in that on an unknown date, you pressured Colleague B to write a letter alleging Colleague D was incompetent;**

Colleague B accepted that she had complained to Mrs Stuart about Colleague D's conduct towards her at the end of the Summer term. She stated that she had told Mrs Stuart that she did not want to go back into the classroom to work with him. Mrs Stuart managed this situation by moving her the following term to work with another teacher, not Colleague D. She stated that she had only believed Mrs Stuart would speak with Colleague D about his behaviour and had not expected her to pursue the matter further. Colleague B stated that Colleague D had apologised the following term.

Colleague B stated that Mrs Stuart had "hounded" her to write the letter and that she did not want to. She also stated that eventually Mrs Stuart had said that if Colleague B didn't write the letter, she would be facing disciplinary action.

Mrs Stuart stated that, on the advice of the local authority, she had asked Colleague B to write a letter about the incident with Colleague D. She stated that she had explained to Colleague D that this would be easier than having to speak at a disciplinary hearing against him.

Although the Panel considered it likely that Mrs Stuart had asked Colleague B on a number of occasions to write down what had happened, the Panel did not consider this to be inappropriate. If an incident had taken place, it would have been important to have a written account. The Panel also doubted that Mrs Stuart would have asked Colleague B to state in the account that Colleague D had been incompetent, or that Mrs Stuart would have threatened Colleague B with disciplinary proceedings if she did not write the letter. The Panel thought it most likely that perhaps Mrs Stuart's language had been imprecise, and that Colleague B had misunderstood.

This allegation is found not proven.

**4b You behaved in an inappropriate manner towards your former Colleague C, in that on an unknown date, you pressured Colleague C to change the start time of her working hours from 8:45am to 8:30am.**

The Panel heard evidence from Colleague C that she had routinely for a number of years began work at 8:30am, although her contract had stated 8:45am, as it had suited her child care arrangements. Colleague C explained that over time, and as those arrangements changed, she began to come in at the time stated in her contract. She also explained that she had not wanted to come into work.

The Panel considered that Colleague C may have felt pressured to change her hours, but that it would not have been inappropriate for Mrs Stuart to request this for the efficient running of the School. Mrs Stuart explained that Colleague C needed to be in work from 8:30 as parents would start calling in if their child was sick; staff would notify the School if they were ill; and that appropriate cover would need to be arranged. The Panel did not consider it inappropriate to ask Colleague C to start earlier, since this appeared to be necessary for the efficient running of the School.

This allegation was found not proven.

**6 You behaved in an inappropriate manner towards Child B, in that on an unknown date, you disciplined Child B by making him sit outside your office for a lengthy period of time.**

Colleague C gave evidence that Child B had been sat outside Mrs Stuart's office for a long time, and that she had asked Mrs Stuart if he could return to his class and that Mrs Stuart had responded "No, he can sit there and suffer until I'm good and ready".

The Panel Bundle contained a written statement of a part-time teacher at the School which stated that Child B often sat outside Mrs Stuart's office for a long time, and that she thought that Mrs Stuart would forget he was there.

Mrs Stuart stated in evidence that Child B had sat outside her office on two or three occasions. She stated that she said to Colleague C that Child B could return to his classroom when he was ready.

The part-time teacher did not give oral evidence and her recollection was untested. The Panel considered that Colleague C's evidence was largely about the way that Mrs Stuart spoke to her, rather than the length of time Child B had sat outside the classroom. The Panel had no evidence as to what length of time was involved. The Panel did not consider therefore that the burden of proof had been discharged by the National College in respect of this incident.

This allegation was found not proven.

## **Findings as to Unacceptable Professional Conduct**

In considering the allegations that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'.

The Panel is satisfied that the conduct of Mrs Stuart in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mrs Stuart is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
  - showing tolerance of and respect for the rights of others;
- Teachers must have 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 concerned that Child A had not been treated with dignity and with due regard for Child A's welfare. She was a vulnerable child that Mrs Stuart failed to treat with care and compassion. The Panel considered this to be a serious act of misconduct.

The Panel considered Mrs Stuart to have been thoughtless in her management of Colleague C, and showed a lack of awareness as to the impact that her lack of

support was having. On its own, this might not have constituted serious misconduct, but exacerbated the seriousness with which the Panel regarded the conduct as a whole.

The Panel was very concerned by Mrs Stuart's lack of attention and regard for the School's policies and procedures. Such policies and procedures are important as they create cohesion in the way that the School addresses important issues and establishes what is expected of staff. Similarly, the Panel was very concerned about Mrs Stuart's lax attitude towards being absent on the first days of term. These are important days which set the groundwork for the rest of the School year.

The Panel is satisfied that the conduct of Mrs Stuart fell significantly short of the standards expected of the profession.

Accordingly, the Panel is satisfied that Mrs Stuart is guilty of unacceptable professional conduct.

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

Given the Panel's findings in respect of unacceptable professional conduct, it is 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 has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition Orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The Panel has considered the particular public interest considerations set out in the Guidance and having done so has found all of them to be relevant in this case, namely the protection of pupils; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the Panel's findings against Mrs Stuart, which involved a failure to treat Child A with dignity and with regard to her welfare, there is a strong public interest consideration in the protection of pupils. Although Mrs Stuart is retired, she could return to teaching at any time, if a Prohibition Order was not imposed.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Stuart were not treated with the utmost seriousness when regulating the conduct of the profession.

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

Notwithstanding the clear public interest considerations that were present, the Panel considered carefully whether or not it would be proportionate to impose a Prohibition Order.

In carrying out the balancing exercise the Panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mrs Stuart. The Panel took further account of the Guidance, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the teachers' standards
- misconduct seriously affecting the education and/or well being of pupils,
- other deliberate behaviour that undermines pupils, the profession, the school or colleagues

Even though there were behaviours that would point to a Prohibition Order being appropriate, the Panel went on to consider whether or not there were sufficient mitigating factors to militate against a Prohibition Order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The Panel noted that the events in this case occurred after Mrs Stuart had suffered the bereavement of her husband and that a number of witnesses referred to her manner having changed after that event. The Panel also noted that Mrs Stuart would have been under pressure during the period that Colleague C was absent on sick leave.

The Panel also noted that Mrs Stuart had an exemplary record. She had favourable Ofsted inspection reports and had been asked to become Head Teacher of this School at a time when it was in special measures. All of the witnesses commended Mrs Stuart for taking the School out of special measures and transforming it into a good School. The Panel did not consider that Mrs Stuart had however, adapted to the change that had occurred in the School and continued with a level of discipline that did not have proper regard for the pupils' welfare.

The Panel considered whether it would be appropriate to conclude this case with no order for Prohibition, but considered that the public interest considerations demanded a Prohibition Order be imposed notwithstanding the aspects of mitigation. The Panel were particularly concerned that Mrs Stuart had not demonstrated insight into how she could have acted differently, save for stating that with regard to Child A it would have been better for her to have been placed in an empty classroom with a Learning Support Assistant. Aside from this, she did not appreciate the lack of support she had provided to Colleague C, nor did she have insight into the effect that a disregard for the policies and for attending the School on the first days of term would have had on the School and its staff. Although, Mrs Stuart has been retired for four years, it was considered necessary

to impose a Prohibition Order in order to send an appropriate signal to the profession as to the severity with which the Panel viewed her conduct. Accordingly, the Panel makes a recommendation to the Secretary of State that a Prohibition Order should be imposed with immediate effect.

The Panel went on to consider whether or not it would be appropriate for them to decide to recommend that a review period of the order should be considered. The Panel was mindful that the Guidance advises that a Prohibition Order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two years.

The Guidance indicates that there are behaviours that, if proven, would militate against a review period being recommended. The Panel did not consider that Mrs Stuart's conduct was at the level of misconduct indicated by those behaviours. Mrs Stuart's previous good history over a significant period indicated that she should be permitted to apply for the Order to be reviewed.

The Panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the Prohibition Order to be recommended with provision allowing Mrs Stuart to apply for it to be reviewed after a period of two years.

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

I have carefully considered the findings and recommendations of the panel in this case.

This case involves a range of allegations relating to

- the updating and implementation of school policies and procedures;
- inappropriate behaviour towards colleagues;
- inappropriate behaviour towards pupils; and
- unauthorised absence.

The panel have found a number of the allegations proven and are satisfied that Mrs Stuart's conduct represents breaches of the Teachers' Standards. Mrs Stuart's behaviour has fallen well short of the standards expected of a teacher and the panel have concluded that her behaviour amounts to unacceptable professional conduct.

In considering whether a prohibition order would be an appropriate and proportionate sanction they have properly balanced the public interest considerations with those of the teacher. They have highlighted a number of public interest considerations that are relevant in this case. Whilst the panel have recognised Mrs Stuart's particular personal

circumstances at the time and also her previous exemplary record, they have concluded that the public interest considerations demand the imposition of a prohibition order and I agree.

In considering whether to make provision for an application for the order to be set aside, the panel have determined that none of the proven actions fall into the types of behaviours that would militate against the recommendation of a review period. They have taken account of her previous good history over a considerable period and I agree with their recommendation that Mrs Stuart should be allowed to apply to have the order set aside after a minimum period of two years has elapsed.

**This means that Mrs Susan Margaret Stuart is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** She may apply for the Prohibition Order to be set aside, but not until 27 October 2016, 2 years from the date of this order at the earliest. This is not an automatic right to have the Prohibition Order removed. If she does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mrs Susan Margaret Stuart remains barred from teaching indefinitely.

This Order takes effect from the date on which it is served on the Teacher.

Mrs Susan Margaret Stuart has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this Order.

**NAME OF DECISION MAKER: Paul Heathcote**

A handwritten signature in black ink, appearing to read 'P Heathcote', with a large, sweeping flourish at the end.

**Date: 17 October 2014**

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