



National College for
Teaching & Leadership

Ms Claire Brotherhood: Professional conduct panel outcome

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

December 2015

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

Teacher: Ms Claire Brotherhood
Teacher ref number: 9859044
Teacher date of birth: 30 January 1977
NCTL case reference: 12780
Date of determination: 3 December 2015
Former employer: Fairfield Primary School, Cumbria

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 02 and 03 December 2015 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Ms Claire Brotherhood.

The panel members were Mrs Sheba Joseph (teacher panellist – in the chair), Mr Ian Hughes (lay panellist) and Mr Michael Lewis (teacher panellist).

The legal adviser to the panel was Ms Patricia D’Souza of Eversheds LLP.

The presenting officer for the National College was Mr Ian Perkins of Browne Jacobson LLP.

Ms Brotherhood was present (for the first day of the hearing) and was represented throughout the hearing by Ms Elizabeth Smith of NUT Solicitors.

The hearing took place in public, save for the parts of the hearing that were heard in private session (see further below). The hearing was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 23 July 2015.

It was alleged that Ms Brotherhood was guilty of having been convicted of a relevant offence in that:

1. On 12 June 2013, she was convicted at the West Cumbria Magistrates' Court of failing to provide a specimen for analysis contrary to Section 7(6) Road Traffic Act 1988. She committed this offence on 20 May 2013. As a result of her conviction, she was sentenced to:
 - a. a supervision requirement;
 - b. a community order to be complied with by 12 December 2013;
 - c. disqualification from driving for 18 months;
 - d. disqualification from driving subject to an 18 week reduction if a course approved by the Secretary of State is completed by 12 June 2014;
 - e. a programme requirement for 8 days (Cumbria Alcohol Awareness Initiative);
 - f. a curfew requirement of 8 weeks with electronic tagging.

2. On 12 June 2013, she was convicted at the West Cumbria Magistrates' Court of Dangerous Driving contrary to Section 2 Road Traffic Act 1988. She committed this offence on 20 May 2013. As a result of her conviction, she was sentenced to:
 - a. a supervision requirement;
 - b. a community order to be complied with by 12 December 2013;
 - c. disqualification from driving for 12 months;
 - d. disqualification from driving until an extended test was passed;
 - e. a programme requirement for 8 days (Cumbria Alcohol Awareness Initiative);
 - f. a curfew requirement of 8 weeks with electronic tagging;
 - g. victim surcharge £60.00;
 - h. costs of £85.00

She was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Fairfield Primary School, she:

3. Attended work under the influence of alcohol on one or more occasions;
4. Had alcohol within her personal belongings at work on 1 July 2014;
5. Failed to disclose to her employer that she was convicted on 12 June 2013 for the two offences listed above in contravention of the School's adopted Code of Conduct;
6. And in doing 5 above, she acted dishonestly in that she knew or ought to have known that this was a material fact which she deliberately chose not to disclose so as to avoid any scrutiny or potential action being taken by her employer.

In the statement of agreed and disputed facts included in the bundle, Ms Brotherhood admits the facts of the allegations referred to at allegations 1 to 5 above. She also admits that these amount to convictions of relevant offences, unacceptable professional conduct and conduct that may bring the profession into disrepute.

Ms Brotherhood disputes the facts of allegation 6 and therefore this matter proceeded as a disputed case.

C. Preliminary applications

The panel has considered whether to exercise its discretion under Regulation 11 of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations") and paragraph 4.57 of the Disciplinary Procedures for the Teaching Profession (the "Procedures") to exclude the public from all or part of the hearing. This follows legal advice from the legal advisor that this should be considered as a preliminary issue as health matters may be discussed at the hearing.

The panel has determined whether to exercise its discretion under Regulation 11(3)(a) and the first bullet point of paragraph 4.57 of the procedures that the public should be excluded from the hearing where it appears in the interest of justice or the public interest to do so.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. The panel has noted that confidential matters relating to Ms Brotherhood's health may be discussed at the hearing and thereby be placed in the public domain. The panel has taken account of the presenting officer's submissions that it would not be appropriate for the entire hearing to be heard in private but it is a matter for the panel to determine

whether part of the hearing should be heard in private as a result of health issues or any other matters the panel consider appropriate. The panel has balanced the reasons why it considers it must determine whether the public be excluded against the competing reasons for which a public hearing is required.

The panel notes that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing is preferable to a permanent exclusion of the public. The panel has therefore, considered whether there are any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to Ms Brotherhood's health. The panel considers that to the extent it becomes necessary during the course of the hearing to discuss such matters, the panel can consider at that stage whether to exclude the public from that portion of the hearing only. The panel requests that both parties indicate to the panel in advance of their submissions or questioning of witnesses whether health issues are likely to be raised.

At the conclusion of the first day of the hearing, the panel had heard all relevant oral evidence and received closing submissions from both parties. The panel therefore retired to deliberate on its findings of fact (first stage), and convictions, at any time of a relevant offence, unacceptable professional conduct and/or conduct which may bring the profession into disrepute (second stage). Ms Brotherhood notified the panel that she may not be in a position to attend the second day of the hearing, to hear the panel's decision on the first and second stage, and to provide representations on mitigation, due to child care commitments. Ms Brotherhood did however indicate that her representative would attend in her absence and provide further representations on her behalf regarding mitigation and potential sanction (should the hearing proceed to these stages). The panel noted Ms Brotherhood's position and confirmed during the first day of the hearing that no adverse inference would be drawn from Ms Brotherhood's absence on the second day of the hearing, particularly in light of the fact that all oral evidence had been heard. The legal advisor confirmed that it would not be necessary for the panel to make a formal decision on proceeding in Ms Brotherhood's absence. However, the panel would confirm during the second day of the hearing, whether it was content to announce its decision on the first and second stages, regardless of the above.

D. Summary of evidence

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of Proceedings and Response – pages 3 to 17

Section 3: National College witness statements – pages 18 to 37

Section 4: National College documents – pages 38 to 188

Section 5: Teacher documents – pages 189 to 211

In addition, the panel agreed to accept the following:

- The completed signature page of Ms Brotherhood’s statement - to replace pages 196 and 197
- A character reference from Witness A – paginated page 212 to 213

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

Witnesses

The panel heard oral evidence from Witness A – former headteacher of Fairfield Junior School.

The panel also heard oral evidence from Ms Brotherhood.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Ms Brotherhood had been employed at the Fairfield Junior School (“the Junior School”) since September 2007 as a year 6 class teacher and the lead for English. On a number of occasions staff members reported to the headteacher at the Junior School that Ms Brotherhood had displayed bizarre or inappropriate behaviour towards staff and/or pupils. On 10 June 2013 Ms Brotherhood commenced a period of sick leave. On 12 June 2013 Ms Brotherhood was convicted of two offences relating to failing to provide a specimen and dangerous driving. On 1 September 2013 the Junior School merged with Fairfield Infant School to form the Fairfield Primary School (“the Primary School”). Following alcohol being discovered amongst her personal belongings on the Primary School premises on 1 July 2014, the Primary School suspended Ms Brotherhood whilst it conducted an investigation. Ms Brotherhood sent a letter of resignation dated 18 September 2014 prior to a disciplinary hearing on 26 September 2014 that concluded she be dismissed for gross misconduct. Ms Brotherhood’s dismissal was upheld,

following the hearing of her appeal to the governors of the Primary School, on 17 November 2014.

Findings of fact

The panel's findings of fact is as follows:

The panel has found the following particulars of the numbered allegations 1 to 5 against you proven, for these reasons. The panel records its reasoning relating to the stem of allegations 1 and 2 and the stem of allegations 3 to 6 at a later stage in this decision.

You have been convicted, at any time, of relevant criminal offence, in that:

1. On 12 June 2013, you were convicted at the West Cumbria Magistrates' Court of failing to provide a specimen for analysis contrary to Section 7(6) Road Traffic Act 1988. You committed this offence on 20 May 2013. As a result of your conviction, you were sentenced to:

- a. a supervision requirement;**
- b. a community order to be complied with by 12 December 2013;**
- c. disqualification from driving for 18 months;**
- d. disqualification from driving subject to an 18 week reduction if a course approved by the Secretary of State is completed by 12 June 2014;**
- e. a programme requirement for 8 days (Cumbria Alcohol Awareness Initiative);**
- f. a curfew requirement of 8 weeks with electronic tagging.**

Ms Brotherhood has admitted the facts of this allegation in the statement of agreed and disputed facts and the panel has seen the print out from the police national computer which corroborates the information set out at 1a to 1f. In her oral evidence, Ms Brotherhood indicated that she received this conviction as she was suffering a panic attack at the time and was unable to breathe into the breathalyser for the requisite amount of time to provide a specimen, rather than her being unwilling to provide the specimen. Allegation 1a to 1f is found proved.

2. On 12 June 2013, you were convicted at the West Cumbria Magistrates' Court of Dangerous Driving contrary to Section 2 Road Traffic Act 1988. You committed this offence on 20 May 2013. As a result of your conviction, you were sentenced to:

- a. a supervision requirement;**

- b. a community order to be complied with by 12 December 2013;**
- c. disqualification from driving for 12 months;**
- d. disqualification from driving until an extended test was passed;**
- e. a programme requirement for 8 days (Cumbria Alcohol Awareness Initiative);**
- f. a curfew requirement of 8 weeks with electronic tagging;**
- g. victim surcharge of £60.00;**
- h. costs of £85.00.**

Ms Brotherhood has admitted the facts of this allegation in the statement of agreed and disputed facts and the panel has seen the print out from the police national computer which corroborates the information set out at 2a to 2h. This allegation is therefore found proved.

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Fairfield Primary School, you:

3. Attended work under the influence of alcohol;

Ms Brotherhood has admitted the facts of this allegation in the statement of agreed and disputed facts. The panel noted that the witness statements included in the bundle and Ms Brotherhood's oral evidence supported the admission contained in the statement of agreed and disputed facts. This allegation is therefore found proved.

4. Had alcohol within your personal belongings at work on 1 July 2014;

Ms Brotherhood has admitted the facts of this allegation in the statement of agreed and disputed facts. The panel noted that the witness statements included in the bundle and Ms Brotherhood's oral evidence supported the admission contained in the statement of agreed and disputed facts. This allegation is therefore found proved.

5. Failed to disclose to your employer that you were convicted on 12 June 2013 for the two offences listed above in contravention of the School's adopted Code of Conduct;

Ms Brotherhood has admitted the facts of this allegation in the statement of agreed and disputed facts. She confirmed in oral evidence that she has admitted this in light of the knowledge she now has about the existence of and the provisions in the Code of Conduct.

The panel found that Ms Brotherhood failed to disclose her two convictions to her employer. The issue for the panel to determine was, upon having heard oral evidence, and in light of the wording of the allegation, whether there was a failure to disclose in contravention of the Primary School's adopted Code of Conduct.

In his oral evidence, Witness A confirmed that he was the headteacher of the Junior School in May 2013 (which was on or around the time of commission of the offences referred to in allegations 1 and 2).

Further, in his oral evidence Witness A indicated that the Junior School, at the time, adopted all policies and procedures devised by the local authority, and endorsed by the governors, as it was a maintained school. The Junior School was required to ensure that all staff were aware of these policies. On an annual basis, Witness A stated that he showed staff the hard copy file that contained all the policies and procedures and he said any member of staff could access the hard copy in his office. Ms Brotherhood's oral evidence corroborated Witness A's evidence on this point. However, she could not recall precisely which version of the Code of Conduct was specifically drawn to her attention or that there was a formal meeting at which these policies and procedures were discussed.

Witness A confirmed that each staff member had to sign a form, on an annual basis, indicating that they had had sight of this file and could access it at any time. The policies and procedures were not contained on an intranet site at that time. The version of the Code of Conduct included in the bundle dated 15 May 2013 is a generic Code of Conduct devised by the local authority. Witness A did not know if this particular version had been adopted by the Junior School on or around May 2013. He stated it is possible that this version of the Code of Conduct was not in force at the time Ms Brotherhood went off sick in May 2013 and could not confirm that the policy had been approved by the Junior School's governors.

Witness A could not confirm whether clause 7.3 contained in the May 2013 Code of Conduct, relating to disclosure of police cautions or convictions, was also contained within the previous version of the Code of Conduct that was in force at the Junior School in 2012.

It was suggested by Witness A and Ms Brotherhood that the second Code of Conduct included in the bundle, created in July 2013, related to Fairfield Primary School. The Primary School opened in September 2013. It was still a maintained school at that time. Witness A had only ever been headteacher of the Junior School and could not comment on why clause 7.3 was not duplicated or included in the July 2013 Code of Conduct which had been adapted for the new school.

In her oral evidence, Ms Brotherhood could not categorically confirm which version of the Code of Conduct she had been provided with by the headteacher of the Primary School in March 2014 on her return to work after a period of sick leave. However, she believes it may have been the version created in July 2013. She admits that she did not read the

Code of Conduct and accepted that she should have done. Upon questioning by the presenting officer, she admitted that she did not disclose the convictions even after being provided with a copy of the Code of Conduct in 2014. The panel noted that the July 2013 version stated that staff were expected to operate within the law and that unlawful or criminal behaviour, at work or outside, may lead to disciplinary action, including dismissal. The panel noted that this wording did not make it expressly clear that a teacher of the Primary School was under a duty to disclose criminal convictions to the Primary School.

Witness A could not recall if Ms Brotherhood had requested sight of the policies and procedures in the file he maintained. He confirmed to the panel that rarely did any member of staff request sight of the file, but he considered that the Code of Conduct was “live” as it was available for reference. Witness A was not surprised that Ms Brotherhood may not be aware of the content of the Code of Conduct as one could never be certain that all teachers knew the content of all policies and procedures.

Witness A indicated that if a member of staff revealed they had been convicted of an offence he would, as the headteacher of the Junior School, have sought advice from the local authority as to appropriate next steps. Witness A was himself not aware that staff were required to disclose all convictions to him.

The first time that Witness A was aware of Ms Brotherhood having been convicted of any offences was as a result of these proceedings.

The panel acknowledged that, based on the oral evidence it had heard, it was by no means clear which of the two versions of the Code of Conduct included in the bundle had been adopted by the Primary School. Therefore, the panel could not determine the precise wordings and requirements of the relevant Code of Conduct at that time.

The panel noted that the witness statement of the current headteacher of the Primary School included in the bundle provided no clarification on this issue. The panel were not assisted by the National College failing to call the current headteacher to provide oral evidence at the hearing.

However, the panel considered, based on its experience and knowledge of the teaching profession, that it was more likely than not, that any Code of Conduct which was in force at the Primary School (as a maintained school) would have been very similar, if not identical, to the local authority’s current Code of Conduct. This would have contained some wording that indicated teachers were required to disclose criminal convictions to the Primary School. Accordingly, the panel concluded that on the balance of probabilities, it was more likely than not that Ms Brotherhood did fail to disclose the convictions she received, as referred to in allegations 1 and 2, to the Primary School, in contravention of the adopted Code of Conduct.

This allegation is therefore found proved.

The panel has found the following particular of allegation 6 against you not proven, for these reasons:

6. And in doing 5 above, you acted dishonestly in that you knew or ought to have known that this was a material fact which you deliberately chose not to disclose so as to avoid any scrutiny or potential action being taken by your employer.

Ms Brotherhood does not admit the facts of this allegation in the statement of agreed and disputed facts. In his opening statement, the presenting officer, indicated that there is a narrow issue for the panel to determine in relation to this allegation. It is admitted by Ms Brotherhood that she did not disclose the facts of the two convictions referred to in allegations 1 and 2 to her employer, and the panel must determine whether Ms Brotherhood deliberately sought to conceal this information in order to avoid any scrutiny or potential action from her employer.

The panel found Ms Brotherhood to be a credible and open witness. In her oral evidence, Ms Brotherhood stated that she did not realise that there was a duty upon her to disclose her driving convictions to the Primary School, as she did not consider, at the time, that these impacted on her ability to teach children, only on her fitness to drive. She did not realise this could result in her dismissal. It was her evidence that she did not make a deliberate decision not to disclose these convictions to her employer. She believed that staff members in the Primary School were aware of her convictions as, it was her evidence, that a report of her convictions was included in a local newspaper. She stated that other individuals, not connected with her work, had mentioned her conviction which they had seen reported in the press. She believed that her colleagues were simply being nice to her by not wishing to upset her by mentioning her convictions. She stated she had no intent to deceive. She acknowledged in the hearing that she had been naïve.

Upon questioning by the panel, Ms Brotherhood admitted that she should have been aware that, in accordance with the Teachers' Standards, her conduct, both within and outside school, would be covered by these Standards. The presenting officer submitted that Ms Brotherhood decided not to notify her employer of her convictions. [Redacted]

The presenting officer set out the relevant test for dishonesty as established by the R v Ghosh case. This is a two limb test. The first limb is an objective test, namely whether the failure to report these convictions was contrary to the standards of a reasonable and honest person or teacher. The second limb is the subjective test i.e. did Ms Brotherhood realise herself, at the time, that what she did was dishonest.

Ms Brotherhood confirmed in her oral evidence that she stands by the content of her witness statement in that she believes she had told the former headteacher of the Junior School, Witness A that she had been stopped for dangerous driving, although she made no mention to him of the fact that she was over the alcohol limit at that time. She believed that she told him about the dangerous driving incident either at home or a local pub, yet she did not tell him about her subsequent conviction.

The presenting officer submitted that in choosing to not reveal her convictions to the Primary School, Ms Brotherhood's oral evidence confirmed that she understood that a failure to report would lead to scrutiny by the Primary School. Ms Brotherhood acknowledged, upon questioning, that the reasonable and honest teacher or person would see that a failure to report convictions is dishonest.

The presenting officer considered that the subjective test was met as he considered it was more likely than not that she realised that there was a duty to disclose these convictions. The presenting officer highlighted that during the Primary School's internal investigation in 2014 she failed to indicate that she was not aware she had to disclose her convictions. The presenting officer submitted that Ms Brotherhood, when questioned further, changed her version of events and indicated in oral evidence that she had revealed being stopped by the police not her convictions. The presenting officer invited the panel to consider the evidence of Witness A to be more credible than that provided by Ms Brotherhood.

The presenting officer also submitted that Ms Brotherhood has admitted in oral evidence that the onus was on her to reveal her convictions on the first occasion when questioned by the Primary School. He submitted that she admits that she should have disclosed the information, and the notes of investigation meetings included in the bundle indicate she did not reveal this information as she was "ashamed" and did not wish to talk about the issue. This, in the presenting officer's view, suggests she knew she was aware, subjectively, that she should have disclosed this information and that she was deliberately avoiding scrutiny to advance her personal interests.

Despite Ms Brotherhood accepting, that in accordance of the standards of reasonable and honest teachers, most teachers would report a conviction to their employer, the panel noted that she firmly believed, at the time, that her driving offences had nothing to do with her ability to teach.

The panel were mindful that dishonesty is a serious allegation and it is for the National College to prove, on the balance of probabilities, whether this allegation satisfied both elements of the R v Ghosh test.

The panel concluded that the objective test established by R v Ghosh was met. As most honest and reasonable teachers and/or honest and reasonable persons, would consider that Ms Brotherhood acted dishonestly in failing to reveal her driving convictions as a means to avoid further scrutiny or action by her employer.

The panel were mindful of the advice provided by the legal advisor that it should note that dishonesty is not the only explanation for the conduct alleged and that there can be other explanations, such as mistake or carelessness.

In carefully considering all the evidence it had heard and seen in the bundle, the panel concluded that throughout her employment with the Primary School from September

2013 onwards, Ms Brotherhood was suffering with two health conditions, referred to above, which she had told the panel impaired her ability to think rationally. The panel found that at this time, there was evidence of a dramatic decline in her teaching capability, professional behaviour and judgment. Witness A's oral evidence was that Ms Brotherhood had been an outstanding teacher but by Spring 2013, her teaching was only satisfactory, she had performed surprisingly poorly at an interview and failed to complete an NPQSL management course. It appeared to the panel that Ms Brotherhood's [redacted] and self-denial dominated her life and impacted upon her rational judgment. The panel considered that Ms Brotherhood was mistaken and/or careless in concluding that her convictions had no bearing on her status as a teacher, but that she had not intentionally avoided revealing this detail as a deliberate attempt to deceive the Primary School. The panel did not find that the National College had proved, on the balance of probabilities, that Ms Brotherhood had deliberately chosen not to reveal her convictions in order to avoid any scrutiny or potential action by her employer.

Therefore, the panel considered the subjective test was not met. As a result, the panel could not find that both limbs of the R v Ghosh test were met. The panel considered it had heard or seen no evidence to confirm, on the balance of probabilities, that she had made a deliberate choice to deceive at that time. The panel therefore concluded this allegation was not proven.

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

Having found allegations 1 to 5 proven, the panel has gone on to consider whether the facts of those proven allegations amount to conviction of a relevant offence, unacceptable professional conduct and/or conduct that may bring the profession into disrepute, which has been admitted by Ms Brotherhood in the statement of agreed and disputed facts.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as "the Advice".

The panel is satisfied that the conduct of Ms Brotherhood in relation to the facts it has found proved, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Ms Brotherhood 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;
- 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.

In relation to the issue of whether there has been a conviction, at any time, of a relevant offence, the panel noted Ms Brotherhood's conviction for dangerous driving under section 2 Road Traffic Act 1988, was relevant to working with children and/or working in an education setting. Ms Brotherhood should, as a teacher, set high standards in her conduct which the panel considered she failed to do, with being nearly four times over the drink drive limit, swerving dangerously across the road. This could have had an impact on the safety or security of members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Ms Brotherhood's behaviour in committing the dangerous driving offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has noted that Ms Brotherhood's behaviour has ultimately led to her receiving two convictions albeit that no custodial sentence was imposed. The panel considers the conviction for dangerous driving a serious driving offence, and involved alcohol. The Advice states that such an offence is likely to be considered a relevant offence.

The panel has taken into account the positive written and oral evidence that has been adduced attesting to Ms Brotherhood's teaching capabilities. The panel has also taken into consideration Ms Brotherhood's account of the stress and health issues which she describes that she was suffering at the relevant time. This impacted on her behaviour and led her to consume alcohol which culminated in the behaviour that caused her to commit the two offences described in allegations 1 and 2. Ms Brotherhood outlined in her oral evidence the support that she is receiving that has enabled her to develop strategies to help her cope with challenges in her personal life.

Although the panel finds the evidence of Ms Brotherhood's teaching proficiency to be of note, the panel has found the seriousness of the offending behaviour that led to the dangerous driving conviction is relevant to Ms Brotherhood's ongoing suitability to teach. The panel considers that a finding of a relevant offence make it necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

In relation to the issue of unacceptable professional conduct (with regard to allegation 3 to 5), the panel is also satisfied that the conduct of Ms Brotherhood fell significantly short of the standards expected of the profession. The panel considered that Ms Brotherhood's conduct contravened multiple requirements under Part Two of the Teachers' Standards.

In particular, she failed to observe appropriate professional boundaries by attending the Primary School premises under the influence of alcohol and with alcohol in her possession, which contravened the obligation to safeguard pupils and not to put pupils at unnecessary risk.

Accordingly, the panel is satisfied that Ms Brotherhood is guilty of unacceptable professional conduct.

The panel has further taken into account how 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 has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

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

The panel therefore finds that Ms Brotherhood's actions also constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of conviction of relevant offences, unacceptable professional conduct and conduct that may bring the profession into disrepute, 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 Advice and having done so has found all of them to be relevant in this case, namely: the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings in relation to Ms Brotherhood, which involved a conviction for dangerous driving under the Road Traffic Act 1988, there is a strong public interest consideration in relation to the protection of members of the public. Further, given the finding that Ms Brotherhood attended the Primary School on more than one occasion

under the influence of alcohol, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found in relation to Ms Brotherhood 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 proved 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 taking into account the effect that this would have on Ms Brotherhood.

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 Ms Brotherhood. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been 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, and particularly where there is a continuing risk;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

Although 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 justify a prohibition order not being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The panel accepts Ms Brotherhood's evidence that the two health conditions from which she was suffering at the time, had a major impact on her behaviour. Allegations 1 to 5 were a result of Ms Brotherhood undertaking a deliberate decision to drive and attend the Primary School whilst under the influence of alcohol and to have alcohol in her possession. The panel did not consider that Ms Brotherhood was acting under duress at this time.

The panel also accepted the oral evidence of Witness A relating to Ms Brotherhood previously being an "outstanding" teacher and that she had an previously unblemished professional history. Her representative indicated that she had been teaching for 15 years and she had no previous conduct or capability issues.

The feedback on lesson observations, included in the bundle, indicated that Ms Brotherhood's teaching was "excellent", she had "excellent subject knowledge" and her lessons were "outstanding". There is also a reference in the bundle from Witness A which states that he had not worked with a better teacher and she had shown strong leadership in English. Witness A corroborated these accounts in his oral evidence.

Ms Brotherhood's representative reminded the panel that Witness A had no concerns about her capability or her conduct around pupils, particularly when undertaking residential trips. Therefore he considered that, when Ms Brotherhood was well, pupils were safe in her care.

Further, Ms Brotherhood's representative submitted that the conduct that led to the facts of the allegations took place over a short period of time and for much of that time, Ms Brotherhood was on sick leave. Therefore, in her representative's view, this would impact on whether there has been a serious departure from the personal and professional conduct elements of the Teachers' Standards.

Ms Brotherhood confirmed in her oral evidence that the effect of a prohibition order would damage her confidence and it would be detrimental to her self-esteem as she had always seen herself as a teacher. She would struggle to define herself if she were not permitted to continue to be a member of this profession. She has been involved in teaching since 1999. Witness A also stated in his oral evidence that Ms Brotherhood would be a great loss to the profession.

Further, a prohibition order would impact on her ability to earn a living. She can appreciate now that the facts set out at allegations 3 and 4 would have had a negative effect on other members of staff and pupils. She cannot believe she let herself get so "down" that she would have caused her colleagues to have to worry about her and watch her carefully because they considered she was at risk of exhibiting inappropriate behaviour around children. Ms Brotherhood indicated that she was very sorry for what she had done and if she had known then, what she knows now, her conduct would have been very different. She appreciates that both her conduct in or outside the Primary School relating to allegations 1 to 4 could have caused the profession to come into disrepute. The panel regarded Ms Brotherhood's regret as sincere.

The panel has decided that the public interest considerations outweigh the interests of Ms Brotherhood. Ms Brotherhood's acknowledgement of her ongoing recovery from [redacted] was a significant factor in forming that opinion. The panel were impressed at the candid nature of her oral evidence relating to the extensive efforts she had made in terms of seeking external support and therapies which had led her to be able to assist others [redacted]. The panel consider that Ms Brotherhood has made good progress in her personal recovery and development, but consider that it would be wise to enable her more time to demonstrate that she has sustained her recovery and that there is a low risk of her breaching the Teachers' Standards in the future.

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 were mindful that the Advice indicates that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

There are behaviours set out on page 12 of the Advice that, if proven, would militate against a review period being recommended. The panel has found that none of these behaviours are relevant. The panel has found that Ms Brotherhood has been responsible for dangerous driving whilst under the influence of alcohol, arriving at the Primary School's premises whilst under the influence of alcohol, with alcohol in her possession. However such behaviours do not link back to the behaviours that the Advice indicates should lead to a recommendation of no review period.

Ms Brotherhood said in her oral evidence that she was worried about what people thought of her and whether she was pleasing them. Her perfectionist nature and caring for a young family impacted on her ability to cope with the pressures of her role and personal life. She gave evidence of "using alcohol as a crutch". However, she gave extensive oral evidence to the panel about the efforts she has undertaken [redacted]. These have assisted her with understanding the triggers for her stress. She has now developed alternative strategies to assist her with coping with stress which would not result in her using alcohol again. The panel noted from Ms Brotherhood's oral evidence that she has not had alcohol since February 2015.

She understood the effect of her behaviour on pupils, her colleagues and her family. She expressed her regret for what had happened and apologised for it.

The panel considered that Ms Brotherhood had expressed remorse for her actions and that she had developed insight into how her failure to cope with stress had exacerbated her symptoms. The panel considered that more time was needed for Ms Brotherhood to demonstrate that she presented no ongoing risk of relapse leading to inappropriate behaviour which would be a breach of the Teachers' Standards.

The panel therefore considered that a review period would be appropriate and decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period of 2 years. The panel considered this period of time should be sufficient for Ms Brotherhood to develop further insight and provide medical and other documentary evidence of her sustained recovery and fitness to return to teaching.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case. The panel has found a number of allegations proven and has determined that the facts amount to conviction of relevant offences, unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering whether to recommend a prohibition order as an appropriate and proportionate sanction the panel has balanced the interests of the public with those of Ms Brotherhood. The panel has found the following public interest considerations relevant in this case:

- The protection of pupils and other members of the public;
- The maintenance of public confidence in the profession; and
- Declaring and upholding proper standards of conduct.

The panel has paid due regard to the medical issues Ms Brotherhood was experiencing at the time of her actions. It has though considered that Ms Brotherhood's actions were deliberate and she was not acting under duress.

I agree with the panel's recommendation that prohibition is an appropriate sanction.

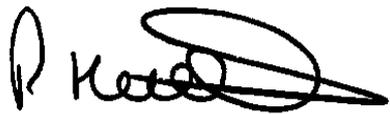
The panel went on to consider whether a review period would be appropriate in this case. It has noted that Ms Brotherhood has expressed remorse and that she has developed insight into how her failure to cope with stress had exacerbated her symptoms.

The panel recommend that a period of 2 years should be sufficient for Ms Brotherhood to develop further insight and provide medical and other documentary evidence of her sustained recovery and fitness to return to teaching. I agree with that recommendation.

This means that Ms Claire Brotherhood 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 15 December 2017, 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, Ms Claire Brotherhood remains prohibited from teaching indefinitely.

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

Ms Claire Brotherhood 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.

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

Decision maker: Paul Heathcote

Date: 8 December 2015

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