



National College for  
Teaching & Leadership

# **Mr David Bishop-Rowe: Professional conduct panel outcome**

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

**December 2017**

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

<b>Teacher:</b>	Mr David Bishop-Rowe
<b>Teacher ref number:</b>	7451325
<b>Teacher date of birth:</b>	29 April 1956
<b>NCTL case reference:</b>	12838
<b>Date of determination:</b>	12 December 2017
<b>Former employer:</b>	Sutton School and Specialist College (the “School”), Dudley, West Midlands

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 11 December 2017 to 12 December 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr David Bishop-Rowe.

The panel members were Ms Fiona Tankard (teacher panellist – in the chair), Ms Jean Carter (lay panellist) and Mr John Armstrong (lay panellist).

The legal adviser to the panel was Mrs Natascha Gaut of Eversheds Sutherland (International) solicitors.

The presenting officer for the National College was Mr Andrew Cullen of Browne Jacobson solicitors.

Mr David Bishop-Rowe was not present and was not represented.

The hearing took place in public and was recorded.

## B. Allegations

The panel considered the allegation(s) set out in the Notice of Proceedings dated 28 September 2017.

It was alleged that Mr David Bishop-Rowe was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

1. You carried out private consultancy work for the National College for School Leadership ['NCSL'] during the school day and at other times for the equivalent of two days per week, for which you and/or your company, Education Development Consultancy Limited ['EDC'], received payment;
2. In respect of the private consultancy work which is referred to at 1 above, you undertook this without:
  - a) the Governing Board's permission;
  - b) accepting a reduction in your salary;
3. You failed to declare your interest in EDC following your appointment as a director on 19 May 2011 in the School's register of interests in the academic years 2011/12 and/or 2012/2013;
4. In the academic year 2011/12 you ensured that payments totalling approximately £27,926.75 due to the School in respect of an agreement that you should conduct work for the NCSL were paid into EDC's bank account;
5. You carried out consultancy work as an Associate for the University of Wolverhampton having not received permission to undertake private work;
6. You inappropriately received additional salary that was supposed to be a percentage of revenue generated for the School by you when you knew, or ought to have known, that the School did not receive any revenue at that time. The additional salary you received was:
  - a) In 2011/12 the sum of £22,500;
  - b) In 2012/13 the sum of £25,000;
7. In the academic year 2011/12 you allowed and/or took no action to prevent the School from being reimbursed for expenses purportedly incurred administering a grant from the National College for the Black Country Learning Leadership Agency work which you knew, or ought to have known, were excessive, including:
  - a) £26,000 for an administrative assistant's salary based on 30 hours' work a week;
  - b) £2,000 for premises costs;
  - c) £5,000 for energy costs;
  - d) £2,312 for telephone charges;
  - e) £300 for photocopier charges;
  - f) £371.50 for general admin consumables;

8. You inappropriately received lunchtime duty payment for up to five days per week when you knew that it was not due to you as you had not undertaken sufficient lunchtime duties;
9. You instructed the Deputy Headteacher to falsify an invoice and use it to include the cost of three supply teachers as part of a compensation claim against a coach transport company following a school trip in November, when no additional supply costs had been incurred;
10. In 2013/14 you instructed or allowed staff to move sensory room equipment, obtained through a grant from the Lords Taverners, from the School to the Halesbury School which was in breach of the grant conditions and/or incurred a cost of £1,400 for the School;
11. In March 2011 you arranged for the School to purchase a Yamaha Clavinova (at a cost of £3,999.17 plus VAT) which was for your personal use, but you only reimbursed the School the net cost, thereby failing to pay the VAT for a personal item;
12. In the academic year 2013/14 you procured a 21% salary uplift for yourself without the governing body's formal approval;
13. Your actions as set out above at 1-12 were dishonest.

In advance of the hearing Mr Bishop-Rowe admitted all of the allegations detailed above. Mr David Bishop-Rowe also admitted that his conduct amounted to unacceptable professional conduct and conduct which may bring the profession into disrepute.

## **C. Preliminary applications**

The panel considered an application to admit additional documentation from the presenting officer, namely an email dated 12 December 2017, which was relevant to a further application, an application to proceed in absence of the teacher. This document was not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether this document should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel.

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case. The panel was satisfied that the document was relevant to the proceedings and this document was added to the bundle and paginated as page 22a.

The panel went on to consider whether this hearing should continue in the absence of Mr Bishop-Rowe.

After hearing the presenting officer's submissions and reviewing the documentation, namely the documents at pages 15 to 18 and pages 22 to 22a of the bundle, the panel

was satisfied that the National College had complied with the service requirements of regulation 19.a. to 19.c. of the Teacher's Disciplinary (England) Regulations 2012 (the "Regulations"). The panel was also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Teacher misconduct - Disciplinary procedures for the teaching profession ("the Procedures").

The panel determined to exercise its discretion under paragraph 4.28 of the Procedures to proceed with the hearing in the absence of the teacher.

In making its decision, the panel noted that the teacher may waive the right to participate in the hearing. The panel understood that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution and that its discretion is a severely constrained one.

The panel had taken account of the various factors drawn to its attention from the case of *R V Jones [2003] 1 AC1*. The panel, after reviewing all of the evidence highlighted above, considered that Mr Bishop-Rowe had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place. The panel considered that the NCTL took all reasonable steps open to it to confirm whether Mr Bishop-Rowe would be attending and whether he would be legally represented.

There was no indication that an adjournment would have resulted in Mr Bishop-Rowe's attendance at a future hearing.

The panel also had regard to the extent of the disadvantage to Mr Bishop-Rowe in not attending, and proceeded with extreme caution. The panel concluded that it would exercise its vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel also noted that there would be additional costs to the public purse in adjourning.

The panel had regard to the seriousness of this case and the potential consequences for the teacher and accepted that fairness to Mr Bishop-Rowe was of prime importance. However, it considered that in light of Mr Bishop-Rowe's waiver of his right to appear, by taking such measures referred to above to address that unfairness in so far as is possible, that on balance, these are serious allegations and the public interest in this hearing's proceeding within a reasonable time is in favour of the hearing's continuing.

The panel also considered an application made by the presenting officer on behalf of Mr Bishop-Rowe that the hearing should be held in private. It was explained to the panel that this application had been made through Mr Bishop-Rowe's statement of mitigation. The panel decided that the public interest required that the hearing should be held in public.

## **D. Summary of evidence**

### **Documents**

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

Section 1: Chronology and list of key people – pages 2 to 3

Section 2: Correspondence – pages 5 to 22a

Section 3: NCTL witness documents – pages 24 to 1049

Section 5: Teacher documents – pages 1051 to 1063

As stated above, the panel considered an application to admit additional documentation from the presenting officer, namely an email dated 12 December 2017, which was relevant to the proceeding in absence application. The panel was satisfied that the document was relevant to the proceedings and this document was added to the bundle and paginated as page 22a.

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

### **Witnesses**

No witnesses were called to give evidence for this hearing.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

The panel confirmed that it had read all the documents provided in the bundle in advance of the hearing.

Mr Bishop-Rowe commenced employment at the School as headteacher on 1 January 2002. The School is a purpose built day school for pupils aged 11-16 whose educational needs cannot adequately be met in mainstream schools. The School caters for approximately 160 pupils, all of whom have a statement of educational needs and are deemed to have moderate learning difficulties.

In 2013 the School started to work closely supporting the Halesbury Special School (“Halesbury School”). This relationship developed further in July 2013 as the two schools founded a trust, “The People’s Trust,” which secured a more formal working relationship for the two schools.

The panel was informed that Mr Bishop-Rowe owned a private company named Education Development Consultancy Limited (“EDC”). Mr Bishop-Rowe was made a director of EDC on 19 May 2011. It was alleged that Mr Bishop-Rowe did not declare this interest in the School’s register of interests for the academic years of 2011/2012 and 2012/2013.

It was also alleged that between September 2011 and 29 March 2013, Mr Bishop-Rowe carried out private consultancy work for NCLS/University of Wolverhampton and Mr Bishop-Rowe or his company, EDC, received payment for completing this work. The panel was informed that this work was completed during the school day and at other times for the equivalent of 2 days per week and that this work was undertaken without the governing board’s permission.

The panel had sight of the statement of agreed facts, pages 5 to 6, and understood that Mr Bishop-Rowe received payments, due to the School, in respect of an agreement that he would conduct work for the NCSL as an operational associate. These payments were paid into EDC’s bank account and totalled £27,926.75.

The panel also understood that Mr Bishop-Rowe received additional salary that was meant to be a percentage of revenue generated for the School when he knew or ought to have known that the School did not receive any revenue at that time.

It is also alleged that during the academic year 2011/2012, Mr Bishop-Rowe allowed/took no action to prevent the School from being reimbursed expenses which had been purportedly incurred administering a grant from the National College for the Black Country Learning Leadership Agency which he knew or ought to have known were excessive. Further, the panel was informed that Mr Bishop-Rowe knew or ought to have known that the expenditure made from the grant was not valid and the School had incorrectly benefitted from the reimbursements.

The panel was informed that in March 2011 Mr Bishop- Rowe arranged for the School to purchase a Yamaha Clavinova, at a cost of £3,999.17 plus VAT, which was for Mr Bishop-Rowe’s personal use. Whilst Mr Bishop-Rowe paid back the cost of the product, it was alleged he did not pay the corresponding VAT.

The panel was informed that Mr Bishop-Rowe inappropriately received lunchtime duty payment for up to 5 days per week when it was not due to Mr Bishop-Rowe as he had not undertaken the relevant lunchtime duties.

The panel was made aware that Mr Bishop-Rowe instructed the deputy headteacher to falsify an invoice and use it to include the cost of supply teachers as part of a compensation claim against a coach transport company following a school trip in November 2013.

In 2013/2014 Mr Bishop-Rowe allowed staff to move sensory equipment from the School to Halesbury School. Mr Bishop-Rowe ought to have been aware that the equipment had been obtained through a grant from the Lord's Taverners and therefore moving the equipment to a different school was in breach of the terms of the grant. This incurred a cost of £1,400 for the School.

Mr Bishop-Rowe also failed to properly seek or receive the governing body's formal approval for a 21% salary uplift in the academic year 2013/14.

In December 2013 a whistle-blower complaint was made to Individual A (Chair of the People's Trust Board and nominated whistle-blower governor at the School).

Shortly afterwards, 20 January 2014, the School began an investigation into Mr Bishop-Rowe's behaviour. Mr Bishop-Rowe was suspended from the School on 11 April 2014 and ultimately resigned from the school on 31 May 2014.

## **Findings of fact**

Our findings of fact are as follows:

We have found the following particulars of the allegation(s) against you proven, for these reasons:

**You failed to maintain appropriate professional standards whilst working as a Headteacher at the Sutton School and Specialist College ("the School") as:**

- 1. You carried out private consultancy work for the National College for School Leadership ['NCSL'] during the school day and at other times for the equivalent of two days per week, for which you and/or your company, Education Development Consultancy Limited ['EDC'], received payment;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, at pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle. The panel also had regard to the submissions made by the presenting officer. More specifically, the panel reviewed the contract at page 788 of the bundle held between the NCSL and the School dated 4 July 2008. The presenting officer asserted that this contract was evidence of a clear relationship between the NCSL and the School and not between the NCSL and Mr Bishop-Rowe. The panel did not accept Mr Bishop-Rowe's mitigation that he was under the assumption that EDC held a separate contract with the NCSL.

The panel also reviewed the invoices found at page 824 to 834 of the bundle. These were of importance as the invoices detailed that the NCSL was paying money to Mr Bishop-Rowe through his company EDC. The panel was able to reach this conclusion as within the top right hand corner of the invoice Mr Bishop-Rowe's name can be seen and the account number detailed at the bottom of the invoice page is the account number for

EDC. The panel concluded that this was the account number for EDC as it had been detailed at the bottom of an EDC invoice earlier in the bundle, pages 167 and 168.

The panel was aware from the document at pages 236 to 259 of the bundle, that Mr Bishop-Rowe was named as director of EDC. This meant that the payments made to EDC were being paid in effect directly to Mr Bishop-Rowe.

The panel therefore found this allegation proven.

**2. In respect of the private consultancy work which is referred to at 1 above, you undertook this without:**

**a) the Governing Board's permission;**

**b) accepting a reduction in your salary;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, at pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle. The panel also had regard to the presenting officer's submissions and reviewed the minutes from the meetings held by the governors of the School, pages 450 to 529. After reviewing these minutes, the panel concluded that Mr Bishop-Rowe had never mentioned his interest in EDC, which therefore implied that he had never asked directly for the governing board's permission to undertake this work.

The panel also had regard to the witness statement of Individual B, pages 346 to 351, more specifically page 358 when she was asked whether she was aware that Mr Bishop-Rowe had his own business and she answered, "No it is a complete surprise." This is in complete contradiction of Mr Bishop-Rowe's statement of mitigation, page 1051, where he states that he discussed at length with Individual B the setting up of EDC and the start of consultancy work. The panel found it more likely than not that Mr Bishop-Rowe had not discussed this matter with Individual B.

Due to the finding of fact that Mr Bishop-Rowe had never consulted the governing board regarding the consultancy work, the panel also concluded that he neither sought nor accepted a reduction in his salary.

The panel therefore found the allegation proven.

**3. You failed to declare your interest in EDC following your appointment as a director on 19 May 2011 in the School's register of interests in the academic years 2011/12 and/or 2012/2013;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, at pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle. The panel had regard to the presenting officer's submissions and reviewed pages 407 to 412 of the bundle, which displayed the register of business

interests for multiple academic years. More importantly, the panel focused on pages 410 and 411, which detailed the registers for the academic years 2011/12 and 2012/13. These registers clearly demonstrated that Mr Bishop-Rowe had not detailed his business interest in EDC. The panel took particular note that Mr Bishop-Rowe had signed the register for the academic year of 2011/2012 on the 19 May 2011, which was the same day that EDC was incorporated.

The panel had sight of a declaration of interest for 2010/2011 completed by Mr Bishop-Rowe and therefore it did not accept his assertion that he was unaware that he needed to complete a declaration of interest in either 2011/2012 or 2012/2013.

The panel also concluded that EDC would have been at the forefront of Mr Bishop-Rowe's mind given that it was incorporated on the same day that he was asked to declare his interest for the 2011/2012 academic year and therefore found the facts of the allegation proven.

**4. In the academic year 2011/12 you ensured that payments totalling approximately £27,926.75 due to the School in respect of an agreement that you should conduct work for the NCSL were paid into EDC's bank account;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, at pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle. The panel paid particular attention to the documentation that it had reviewed for allegation 1.

The panel also reviewed the School accounts, specifically page 850, within the bundle. The panel concluded that the NCSL money had been paid to EDC and not to the School and therefore this allegation was found proven.

**5. You carried out consultancy work as an Associate for the University of Wolverhampton having not received permission to undertake private work;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, at pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel reviewed the contract found at page 393 of the bundle which is an agreement between Walsall Local Authority and Mr Bishop-Rowe regarding work that Mr Bishop-Rowe would undertake as an associate of BCCSIP (University of Wolverhampton). It also had sight of invoices to the University of Wolverhampton, from EDC in the name of David Bishop-Rowe for a total of £8,500 for work between October 2012 and March 2013, pages 389 to 390.

The panel also had regard to the minutes from the meetings held by the governors of the School, pages 450 to 529. After reviewing these minutes, the panel concluded that Mr

Bishop-Rowe had not sought permission from the governing board to undertake this work.

The panel found this allegation proven.

**6. You inappropriately received additional salary that was supposed to be a percentage of revenue generated for the School by you when you knew, or ought to have known, that the School did not receive any revenue at that time. The additional salary you received was:**

**a) In 2011/12 the sum of £22,500;**

**b) In 2012/13 the sum of £25,000;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel paid particular attention to the documentation detailed at pages 211 and 213. The panel also reviewed the letter dated 9 October 2008 found at page 193 of the bundle. This letter detailed that Mr Bishop-Rowe would spend one day a week out of school and that the School would be reimbursed for this time. The panel concluded that this letter demonstrated that Mr Bishop-Rowe was clearly aware that the School was to be reimbursed for his time out during the working week and therefore he should not have accepted any additional salary.

The panel therefore found that that the allegation was proven.

**7. In the academic year 2011/12 you allowed and/or took no action to prevent the School from being reimbursed for expenses purportedly incurred administering a grant from the National College for the Black Country Learning Leadership Agency work which you knew, or ought to have known, were excessive, including:**

**a) £26,000 for an administrative assistant's salary based on 30 hours' work a week;**

**b) £2,000 for premises costs;**

**c) £5,000 for energy costs;**

**d) £2,312 for telephone charges;**

**e) £300 for photocopier charges;**

**f) £371.50 for general admin consumables;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel also reviewed the School's investigation report, specifically pages 42 and 43. The panel also referred to the witness statement of Individual C, specifically pages 347 and 349, which stated that Individual C worked fewer hours than were ultimately claimed for by Mr Bishop-Rowe for the School.

The panel accepted Mr Bishop-Rowe's evidence that he had applied for these costs in a grant application and they had been accepted by the grant-giving body. The panel concluded that the charges detailed above had not been incurred to the level applied for in the grant. Therefore the panel considered the excess funds should have been returned to the grant-giving body.

The panel therefore found the allegation proven.

**8. You inappropriately received lunchtime duty payment for up to five days per week when you knew that it was not due to you as you had not undertaken sufficient lunchtime duties;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings Form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel reviewed the document found on page 752 to 756 of the bundle, which detailed the various lunchtime sessions which members of staff had worked. Mr Bishop-Rowe had claimed for a large number of sessions, including sessions when he was not present in the School. The panel also reviewed the evidence of Individual D, page 283 of the bundle, and paid particular attention to the fact that Individual D confirmed that Mr Bishop-Rowe was out for 2 days a week and that no reduction was made for the days that he was out of School. The panel also reviewed the statement of Individual E, more specifically page 306, where Individual E detailed that with respect to lunchtime duties, Mr Bishop-Rowe "...came to the hall on the 10 March for 5 seconds. I have done lunchtime duties for the last 4 or 5 years. I believe DBR [Mr Bishop-Rowe] has done 2 in the last 5 years."

The panel rejected Mr Bishop-Rowe's statement of mitigation that he had received but did not seek lunchtime duty payments and he assumed that the finance manager was adjusting the payments. Mr Bishop-Rowe had clearly signed the claim forms for lunchtime supervision sessions.

The panel found the allegation proven.

**9. You instructed the Deputy Headteacher to falsify an invoice and use it to include the cost of three supply teachers as part of a compensation claim against a coach transport company following a school trip in November, when no additional supply costs had been incurred;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel reviewed the letter, dated 17 October 2013 addressed to the coach transport company, located on pages 440 to 441 of the bundle. This letter was drafted by Mr Bishop-Rowe and listed the additional costs incurred by the School. Page 441 of the bundle details specifically that the School incurred costs of £1,400.00 for having to utilise the services of 7 members of supply staff. Mr Bishop-Rowe detailed within his statement of mitigation that it was not his intention to claim for that specific day of supply work but he was trying to compensate staff for overtime work. The panel also considered the evidence of Individual E that supply staff had not been required on that day to cover and also his evidence that Mr Bishop-Rowe had asked him to acquire the letterhead from the supply agency for this purpose, page 441 of the bundle.

The panel found this allegation proven.

**10. In 2013/14 you instructed or allowed staff to move sensory room equipment, obtained through a grant from the Lords Taverners, from the School to the Halesbury School which was in breach of the grant conditions and/or incurred a cost of £1,400 for the School;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel reviewed the grant application, page 414 of the bundle, and also reviewed the letter from the Lord's Taverners, page 429 of the bundle, which confirmed that the School had been successful in obtaining the grant and detailed the relevant stipulations when using the grant, in particular that the equipment would be for use by the School. This equipment was immediately moved to Halesbury School, which had made its own application for a similar purpose and had received that money.

The panel also reviewed the document found at pages 421 to 422 of the bundle, which is the external funding proposal form. This form was signed by Mr Bishop-Rowe and the panel therefore found that Mr Bishop-Rowe was the responsible officer for this grant and ought to have been aware of the stipulations of the grant. The panel also reviewed the evidence of both Individual B, page 357, and Mr Chamberlain, page 329 and also pages 335 and 336, which confirmed that Mr Bishop-Rowe was responsible for the move of the sensory equipment from the School to Halesbury School.

This was further highlighted in an email, page 439, from Ms Tyson, dated 1 April 2014, in which she stated, "Following on from our conversation this email is to confirm that the Lord's Taverners will require the sensory equipment to be returned to the school that originally applied for the equipment. In our approval letter we state that the equipment must be used by the school who made the application." The School had to pay £1,400 back to the Lord's Taverners due to not following the rules of the grant.

The panel also had regard to Mr Bishop-Rowe's statement of mitigation that he "did not formulate the bid and had been briefed on the area within the school that would accommodate the equipment. This area needed developing and I incorrectly assumed the equipment was only in a temporary place. I was aware of the cost and as this was within my spending limit I agreed to the payment." The panel considered that this was inconsistent with the evidence detailed above.

The panel found the allegation proven.

**11. In March 2011 you arranged for the School to purchase a Yamaha Clavinova (at a cost of £3,999.17 plus VAT) which was for your personal use, but you only reimbursed the School the net cost, thereby failing to pay the VAT for a personal item;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel reviewed an invoice addressed to the School for the Yamaha Clavinova, found at page 740 of the bundle. This invoice stated that the School was asked to pay the amount for the piece of equipment. The panel also reviewed the School's investigation report, page 45, which stated that the School "reclaimed VAT incorrectly as the item was not for use by the School." The panel also reviewed the statement of mitigation, page 1054, and the admission from Mr Bishop-Rowe that he did not reimburse the VAT payment. The panel considered that in ensuring that the Yamaha Clavinova was procured through the School the main motivation of Mr Bishop-Rowe was to avoid having to pay any VAT and therefore the panel found the allegation proven.

**12. In the academic year 2013/14 you procured a 21% salary uplift for yourself without the governing body's formal approval;**

The allegation was admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel took into account the presenting officer's submissions and also took into account the 'schools contract amendment proforma' found on page 215 of the bundle. This document was signed by Individual B. The panel also considered the witness statement of Individual B. When asked if Individual B had authorised the extra payments

to Mr Bishop-Rowe, she replied that she didn't know what she was signing (page 357). The panel also reviewed evidence which demonstrated that Individual B had poor eyesight. Individual B also confirmed that this did not go to the personnel committee. Mr Bishop-Rowe stated that the pay rise was because he had "additional responsibilities which included a vocational provision available for all pupils of secondary age within the local area." However, the panel had sight of Individual F' witness statement which stated that Ms Dagleish was the manager and she reported to Individual F, who attended the meetings. Individual F received no additional payment for this and had no idea that Mr Bishop-Rowe was receiving additional salary for this, page 321 of the bundle.

The panel also reviewed the statement of Individual E, specifically page 309, where he confirmed that he thought the salary uplift of 21% was "absolutely disgusting." The panel took this into consideration as it indicated that a salary increase of this amount was not considered normal.

The panel found that the allegation had been proven.

### **13. Your actions as set out above at 1-12 were dishonest.**

Having found the facts proved in relation to allegations 1 to 12, the panel went on to consider whether Mr Bishop-Rowe's conduct was dishonest. In considering the question of dishonesty, the panel accepted the legal advice provided that the appropriate legal test to be applied was that set out in the judgment of the Supreme Court in *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67. In applying this test, the panel first considered the actual state of Mr Bishop-Rowe's knowledge or belief as to the relevant facts before considering whether the conduct was honest or dishonest, applying the objective standards of ordinary decent people. The panel acknowledged that there was no additional requirement to consider whether Mr Bishop-Rowe appreciated that what he had done was dishonest by those standards.

The allegation was again admitted by Mr Bishop-Rowe within the Notice of Proceedings form, pages 15 to 18 of the bundle, and within the statement of mitigation, found at pages 1051 to 1056 of the bundle.

The panel considered that Mr Bishop-Rowe embarked on a substantial course of dishonest conduct manifested over several years on several levels, which ranged from defrauding the HMRC of VAT revenue to taking advantage of Individual B's disability in order to personally benefit from salary enhancements to which he was not entitled.

The panel was satisfied that, in acting as he did, Mr Bishop-Rowe's actions were dishonest applying the objective standards of ordinary decent people. The panel took note of Mr Bishop-Rowe's admission within his statement of mitigation, in particular the reference to his apology for his "unscrupulousness," page 1054, paragraphs 7 and 14. The panel also noted paragraph 17 of the statement of mitigation specifically, "I accept my misconduct and do not seek to deny responsibility."

The panel found that he deliberately sought to conceal from the governing body and its chair key information such as his setting up and involvement in EDC. The panel noted that Mr Bishop-Rowe was already receiving a salary at point 37, which equated to £91,612.00, before his deception of Individual B, which led to his receiving a further 21% salary uplift, equating to £110,850.52. Mr Bishop-Rowe redirected the NCSL funding that should have been paid to the School into his own company by adding EDC's bank details to the relevant invoices without the knowledge of either the School or the NCSL.

The panel also found that Mr Bishop-Rowe's conduct had involved his junior colleagues in his deceptions, including the procurement of a letterhead in order to make a false claim for compensation following the November 2013 trip to which he knew the School was not entitled. Mr Bishop-Rowe's dishonesty also extended to the claiming of recompense for lunchtime duties which he could not have performed as he was working elsewhere at least 1 day a week and often more.

Mr Bishop-Rowe similarly involved his colleagues in the successful grant application for sensory equipment knowing that this was never intended for the School.

The panel also found that Mr Bishop-Rowe had knowingly received 20% of revenues which had not been received by the School which benefitted him to the amount of £47,500.

The panel found that the course of conduct detailed above was clearly dishonest and therefore the panel found the allegation proven.

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

Having found a number of the allegations to have been proven, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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 Mr Bishop-Rowe in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Bishop-Rowe 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.
- 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 is satisfied that the conduct of Mr Bishop-Rowe amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel has also considered whether Mr Bishop-Rowe's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found that the offence of fraud or serious dishonesty is relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

Accordingly, the panel is satisfied that Mr Bishop-Rowe is guilty of unacceptable professional conduct.

The panel has taken into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel 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 the individual's status as a teacher, potentially damaging the public perception. The panel found that Mr Bishop-Rowe's actions would have had a significant detrimental impact on the public perception of the School particularly with regard to the false claim made to the transport company and the Lord's Taverners grant application.

The panel therefore finds that Mr Bishop-Rowe's actions constitute conduct that may bring the profession into disrepute.

Having found the facts of all of the allegations proved, we further find that Mr Bishop-Rowe's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it 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 a punitive effect.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; the interest of retaining the teacher in the profession.

In light of the panel's findings against Mr Bishop-Rowe, which involved allegations of dishonesty, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Bishop-Rowe were not treated with the utmost seriousness when regulating the conduct of the profession. The panel took account of the sustained course of dishonest conduct that Mr Bishop-Rowe practised over a period of years and that this was aggravated by the deliberate cover up and the exploitation of other members of the School community. The panel considered that Mr Bishop-Rowe abused his position as a headteacher to make personal gains to the detriment of his School and colleagues. The panel found that Mr Bishop-Rowe also exposed his colleagues to potential disciplinary action by involving them in his deception and his disregard for financial probity. The panel also found that Mr Bishop-Rowe deceived the governing body and damaged both the finances and the reputation of his School.

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

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

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 Mr Bishop-Rowe. 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
- a deep-seated attitude that leads to harmful behaviour
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up

Even though there were behaviours that would point to the appropriateness of a prohibition order, the panel went on to consider whether or not there were sufficient mitigating factors to militate against the appropriateness and proportionality of the imposition of a prohibition order, particularly taking into account the nature and severity of the behaviour in this case. The panel found that there was no public interest consideration in retaining the teacher in the profession. There was no evidence within the bundle regarding his abilities as an educator and in any event the allegations were of such a serious nature that any public interest argument had been fatally eroded and he could not now make any valuable contribution to the profession.

The panel found that Mr Bishop-Rowe's actions were deliberate and he was not acting under duress.

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

The panel is of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order is not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Bishop-Rowe. The serious and sustained dishonesty was a significant factor in forming that opinion. 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 to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. These behaviours include fraud or serious dishonesty. The panel has found that Mr Bishop-Rowe has been seriously dishonest for the reasons detailed above.

The panel found that the statement of mitigation included some apologies and regret but gave no reasonable explanation for, or meaningful insight into, his behaviour.

The panel felt the findings indicated a situation in which a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

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

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

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr Bishop-Rowe should be the subject of a prohibition order, with no provision for a review period.

In particular the panel has found that Mr Bishop-Rowe 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.
- 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 is also satisfied that the conduct of Mr Bishop-Rowe amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel has also considered whether Mr Bishop-Rowe's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found that the offence of fraud or serious dishonesty is relevant.

The findings of misconduct are particularly serious in my view as they include a finding of dishonesty on the part of a headteacher. It also involves a proven allegation ( Allegation 9);

“You instructed the Deputy Headteacher to falsify an invoice and use it to include the cost of three supply teachers as part of a compensation claim against a coach transport

company following a school trip in November, when no additional supply costs had been incurred”.

In my view this allegation is also a very serious matter.

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

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed, “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.”

A prohibition order would therefore prevent such a risk of influence from being present. I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “The panel found that the statement of mitigation included some apologies and regret but gave no reasonable explanation for, or meaningful insight into, his behaviour.”

In my judgement the lack of insight means that there is some risk of the repetition of this behaviour and this risks repetition of the behaviour in the future. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the conduct displayed would likely have a negative impact on the individual’s status as a teacher, potentially damaging the public perception. The panel found that Mr Bishop-Rowe’s actions would have had a significant detrimental impact on the public perception of the School particularly with regard to the false claim made to the transport company and the Lord’s Taverners grant application.”

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

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have had

to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

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

I have also considered the impact of a prohibition order on Mr Bishop-Rowe himself. A prohibition order would clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case I have placed considerable weight on the panel’s comments, “There was no evidence within the bundle regarding his abilities as an educator and in any event the allegations were of such a serious nature that any public interest argument had been fatally eroded and he could not now make any valuable contribution to the profession.”

I have also placed considerable weight on the finding of the panel that Mr Bishop-Rowe instructed the Deputy headteacher to falsify an invoice.

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

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

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

I have considered the panel’s comments “ The serious and sustained dishonesty was a significant factor....”

The panel has also said that a no review period is proportionate. I have taken into account the published guidance and I agree that allowing for no review period in the circumstances of the serious dishonesty found in this case is proportionate.

I have considered whether a no review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are three factors that in my view mean that a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the lack of meaningful insight, and the pressure placed on the Deputy headteacher to act dishonestly.

I consider therefore that allowing for no review period is required to satisfy the maintenance of public confidence in the profession.

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

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

Mr David Bishop-Rowe has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'Alan Meyrick', with a checkmark at the end.

**Decision maker: Alan Meyrick**

**Date: 14 December 2017**

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