



Teaching
Regulation
Agency

Mr Michael Feeney: Professional conduct panel outcome

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

July 2021

Contents

Introduction	3
Allegations	4
Preliminary applications	5
Summary of evidence	7
Documents	7
Witnesses	8
Decision and reasons	8
Findings of fact	9
Panel's recommendation to the Secretary of State	16
Decision and reasons on behalf of the Secretary of State	16

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

Teacher:	Mr Michael Feeney
Teacher ref number:	9640298
Teacher date of birth:	2 September 1955
TRA reference:	18616
Date of determination:	14 July 2021
Former employer:	Spring Lane School, Manchester

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 12 to 14 July 2021 by way of a virtual hearing, to consider the case of Mr Michael Feeney.

The panel members were Mr Paul Millett (lay panellist – in the chair), Ms Claudette Salmon (teacher panellist) and Ms Mona Sood (lay panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

The presenting officer for the TRA was Mr David Collins of Capsticks LLP solicitors.

Mr Michael Feeney was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 3 June 2021.

It was alleged that Mr Feeney was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst a teacher at Spring Lane School:

1. On 6 December 2016, he:
 - (a) grabbed the wrist of Pupil A,
 - (b) twisted the wrist of Pupil A,
 - (c) spoke to Pupil A, using words to the effect of “if I wanted to hurt you, you’d know about it”;
2. On 28 March 2017, he:
 - (a) threatened Pupil B,
 - (b) swore at Pupil B,
 - (c) shouted at Pupil B;
3. On 29 June 2017, he:
 - (a) grabbed the arm of Pupil C,
 - (b) swung Pupil C by his arm,
 - (c) swore at Pupil C, using words to the effect of
 - (i) “fucking idiot”,
 - (ii) “do that again and I’ll fucking twat you”;
4. On 4 July 2017, when de-escalation of an incident involving another pupil was required, he did not take care to avoid physical contact between his hand and the face of Pupil D;
5. By his conduct in the following paragraphs he failed to act within statutory frameworks setting out his professional duties and responsibilities
 - (a) Paragraph 1(a),
 - (b) Paragraph 1(b),

(c) Paragraph 3(a),

(d) Paragraph 3(b);

6. By his conduct in the following paragraphs he failed to maintain high standards of behaviour;

(a) Paragraph 1(c),

(b) Paragraph 2,

(c) Paragraph 3(c);

7. By his conduct in paragraph 4 he failed to take appropriate steps to safeguard pupils' well-being

Mr Feeney denied the allegations in his response to notice of proceedings dated 28 June 2021.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Feeney was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Feeney.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the notice of proceedings had been sent to Mr Feeney. However, it noted that it had been served on 3 June 2021 and it had not therefore been served 8 weeks before the date of the hearing in accordance with the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018 (the "Procedures").

On the morning of the hearing, the panel was provided with an email chain between the TRA and Mr Feeney between 27 May 2021 and 2 June 2021. In the email chain, Mr Feeney indicated that he would be prepared to waive the 8 week notice period but that he wanted to firstly view CCTV footage relied upon by the TRA as evidence in this matter. The panel was provided with a separate email chain between Capsticks LLP (the presenting officer firm), Mr Feeney and the TRA between 3 and 21 June 2021 within which Mr Feeney confirmed receipt of a DVD containing the CCTV footage and stated: "*I give my agreement for the case to be heard as scheduled*".

The panel concluded that Mr Feeney had therefore agreed to waive the 8 week notice period.

Mr Feeney had provided a response to the notice of proceedings within which he confirmed that he would not be attending the hearing. The panel was therefore satisfied that Mr Feeney was clearly aware of the hearing. The panel concluded that Mr Feeney's absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel noted that Mr Feeney had not sought an adjournment to the hearing and had agreed to its scheduling, having had the opportunity to reject this on the grounds of inadequate notice. Further, the panel did not consider that an adjournment would procure his attendance at a hearing given that in an email from Mr Feeney to the TRA dated 27 May 2021 he stated: *"I wish to see an end to this case as quickly as possible, and as such, I declared my intention not to attend the hearing"*. There was no medical evidence before the panel that Mr Feeney was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Feeney was neither present nor represented.

Application to admit additional documents

The panel considered a preliminary application from the presenting officer for the admission of additional documents.

The documents were: Mr Feeney's response to the notice of proceedings dated 28 June 2021; the email chain between the TRA and Mr Feeney between 27 May 2021 and 2 June 2021; and the email chain between Capsticks LLP, Mr Feeney and the TRA between 3 June 2021 and 21 June 2021.

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the Procedures.

The panel heard representations from the presenting officer in respect of the application.

The panel considered the additional documents were relevant and it had already considered the additional documents in order to come to the decision as to whether to proceed in Mr Feeney's absence. Accordingly, the documents were added to the bundle.

Application to amend allegations

The presenting officer made an application to amend allegations 2(a) and 2(b) to change the reference to Pupil B to Pupil E. The presenting officer submitted that this was a minor change.

The panel noted that Mr Feeney had not been informed of the proposed changes to the allegations.

Whilst Mr Feeney had not addressed allegations 2(a) and 2(b) in the documents he had provided in connection with this matter, the presenting officer submitted that Mr Feeney had issued a general denial to the allegations and, therefore, the amendment was unlikely to change his response.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the Procedures.

The panel considered that the proposed amendments would change the nature and scope of the allegations in that the allegations would refer to an entirely different pupil. As such, the panel considered that the proposed amendments amounted to a material change to the allegations.

The panel was also of the view that granting the application for the proposed amendments may cause unfairness and/or prejudice to Mr Feeney on the basis that Mr Feeney had not been informed of the amendments nor had he been given the opportunity to respond to the amended allegations.

Accordingly, the panel did not grant this application and considered the original, un-amended allegations, which are set out above.

Summary of evidence

Documents

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

- section 1: chronology, anonymised pupil list and list of key people – pages 5 to 7
- section 2: notice of proceedings and response – pages 8 to 17
- section 3: Teaching Regulation Agency witness statements – pages 19 to 40
- section 4: Teaching Regulation Agency documents – pages 41 to 565
- section 5: teacher documents – pages 566 to 598

In addition, the panel had agreed to accept the following:

- Mr Feeney's response to the notice of proceedings dated 28 June 2021.
- The email chain between the TRA and Mr Feeney between 27 May 2021 and 2 June 2021.
- The email chain between Capsticks LLP, Mr Feeney and the TRA between 3 June 2021 and 21 June 2021.

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

Witnesses

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

- Individual A [Redacted]
- Individual B [Redacted]
- Individual C [Redacted]
- Individual D [Redacted]

The teacher was not present at the hearing and therefore did not give oral evidence or call any witnesses to give oral evidence.

Decision and reasons

The panel announced its decision and reasons as follows:

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

In summary, Mr Feeney (also known as Glenn Feeney) was employed as a science teacher at Spring Lane School ("the School") from 1 September 2016 until 31 October 2018.

The School is a pupil referral unit which caters for pupils who are not suited to mainstream schooling.

Concerns were raised on 6 December 2016 that Mr Feeney had allegedly used physical intervention with Pupil A when it was not necessary to do so. Pupil A was being disruptive during the lesson, and it was alleged that Mr Feeney took hold of Pupil A's wrist and twisted it.

On 28 March 2017 Mr Feeney was involved in an incident with two pupils, Pupil B and Pupil E, in the playground where it was alleged that Mr Feeney swore, shouted and/or threatened the pupils.

It was alleged that on 29 June 2017, Mr Feeney engaged in inappropriate physical contact with Pupil C, in that he grabbed the arm of Pupil C.

It was also alleged that on 4 July 2017, Mr Feeney engaged in inappropriate physical contact with Pupil D in that he was alleged to have struck Pupil D in the face whilst dealing with an incident involving Pupil F.

The matter was referred to the TRA on 6 August 2019.

Findings of fact

The findings of fact are as follows:

1. On 6 December 2016, you:

- (a) grabbed the wrist of Pupil A,**
- (b) twisted the wrist of Pupil A,**
- (c) spoke to Pupil A, using words to the effect of “if I wanted to hurt you, you’d know about it”;**

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 1(a), (b) and (c). However, Mr Feeney did not comment further on these allegations in the documentation he provided to the TRA in connection with this matter.

The panel was provided with a copy of a “BehaviourWatch” entry made by Mr Feeney on 6 December 2016 in respect of this incident. The panel was told that BehaviourWatch was a system used by the School at the time to log behavioural incidents and other matters. In the BehaviourWatch entry, Mr Feeney did not mention grabbing Pupil A’s wrist, twisting it or using the words set out in allegation 1(c).

The panel was also provided with a typed statement from [redacted], a teaching assistant which was prepared on 7 December 2016. The panel noted that this statement differed from Mr Feeney’s account of the incident. In particular [redacted] account was that Mr Feeney had grabbed Pupil A’s arm just above the wrist, shoved it downwards and twisted it. Furthermore, [redacted] stated that Mr Feeney said, “*listen Pupil A if I wanted to hurt you, you’d know about it*” and that the pupil then turned to [redacted] and asked if she had heard Mr Feeney threaten him.

The panel did not hear oral evidence from Mr Feeney or from [redacted]. The panel therefore identified that the evidence in the bundle was hearsay evidence. The panel was

advised that hearsay evidence is admissible in civil proceedings but that it should be recognised as hearsay and the panel should determine the weight to be placed on it.

Accordingly, the panel weighed up the documentary evidence it was provided with. On balance, the panel preferred [redacted] written statement on the basis that it was more detailed, and the panel considered it to be a contemporaneous note of evidence which was made the day after the incident occurred. The panel did not consider that a teaching assistant would invent such serious allegations and it was not provided with any evidence to suggest that [redacted] account of the incident was not truthful.

The panel was satisfied, on examination of the documents before it and on the balance of probabilities, that the facts of allegations 1(a), 1(b) and 1(c) were proven.

2. On 28 March 2017, you:

(a) threatened Pupil B,

(b) swore at Pupil B,

(c) shouted at Pupil B;

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 2(a), (b) and (c). However, Mr Feeney did not comment further on these allegations in the documentation he provided to the TRA in connection with this matter.

The presenting officer made an application to amend allegations 2(a) and 2(b) to refer to Pupil E instead of Pupil B. The panel did not accept this application for the reasons set out above.

Following this application, the panel was not provided with any evidence that Mr Feeney threatened and/or swore at Pupil B. As such the panel did not find these allegations proven.

In respect of allegation 2(c), the panel was shown CCTV footage of the incident. However, the footage did not have any sound. The panel noted that in an investigation meeting at the School on 23 April 2018, Mr Feeney said in respect of this incident *“he [Pupil B] said something to me aggressively, and I gave him a right rollicking. I raised my voice, I shouted at him. Is it school policy – No, but I am only human.”*

The panel concluded that, by his own admission, Mr Feeney had shouted at Pupil B on 28 March 2017 and that the facts of allegation 2(c) were therefore proven.

3. On 29 June 2017, you:

- (a) grabbed the arm of Pupil C,**
- (b) swung Pupil C by his arm,**
- (c) swore at Pupil C, using words to the effect of**
 - (i) “fucking idiot”,**
 - (ii) “do that again and I’ll fucking twat you”;**

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 3(a), (b) and (c).

Mr Feeney did comment on this incident in the documentation he provided to the TRA in connection with this matter. He stated that it was challenging to engage Pupil C in lessons, but that Pupil C responded well to stick insects, which were kept as class pets.

Mr Feeney said that on 29 June 2017 Pupil C had worked well during a lesson and was allowed to hold the stick insects as a result. However, Pupil C began to move towards the classroom door holding a stick insect and Mr Feeney asked him not to leave the room. Pupil C then left the classroom and Mr Feeney followed him and *“reached out and took hold of Pupil C by his arm”*. Mr Feeney said that he did so to prevent Pupil C from continuing into a potentially unsafe situation and because Pupil C had threatened to stamp on the stick insect.

The panel was shown CCTV footage of the incident. The moment where Mr Feeney was alleged to have grabbed Pupil C’s arm was slightly out of shot. However, from the preceding and subsequent CCTV footage the panel concluded that, on the balance of probabilities, Mr Feeney did grab Pupil C’s arm. The CCTV footage also showed Mr Feeney swinging Pupil C around by his arm.

The panel was also provided with a handwritten statement from [redacted], a teaching assistant; a typed statement from Pupil C; and a handwritten statement from another pupil, [redacted], who was present at the time of the incident. All three statements indicated that Mr Feeney called Pupil C “a fucking idiot”. The panel therefore concluded that in all likelihood Mr Feeney did say this.

Pupil C’s statement indicated that the other pupil present [redacted] told him that she had heard Mr Feeney say that he was going to “twat” Pupil C. In her statement she said that Mr Feeney said, *“do that again and I’ll fucking twat you”*. The statement from the teaching assistant, [redacted], made no mention of this. The panel was not persuaded that Mr Feeney said the words described in allegation 3(c)(ii) on the basis that Pupil C and the teaching assistant were present at the time and did not appear to hear it.

On examination of the documents and CCTV footage before the panel and taking into account the oral evidence provided at the hearing, the panel was satisfied that the facts of allegations 3(a), (b) and (c)(i) were proven. The panel did not find allegation 3(c)(ii) proven.

4. On 4 July 2017, when de-escalation of an incident involving another pupil was required, you did not take care to avoid physical contact between your hand and the face of Pupil D;

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegation 4.

Mr Feeney did comment on this incident in the documentation he provided to the TRA in connection with this matter. He stated that Pupil F asked to play music on a computer in his classroom, which Mr Feeney agreed to, provided it was a radio station or the 'top 40'. However, Pupil F began to play music that Mr Feeney considered unsuitable and, when asked to turn the music off, he refused. As a result, Mr Feeney tried to switch off the computer at the wall socket and Pupil F pushed his hands away whilst being verbally abusive. Mr Feeney said that Pupil F pushed hard against his arm and *"the force of Pupil F's push moved my arm across my body towards my right shoulder. At this point, Pupil D had entered my personal space to my right side. My left hand contacted Pupil D's head."*

The panel heard evidence from Individual C who was in the classroom at the time of the incident. Individual C said that Mr Feeney and Pupil F were scrabbling over the computer plug and Pupil F was trying to push Mr Feeney's arm to stop him turning the computer off. Individual C described Pupil F pushing Mr Feeney's arm as *"almost like a flick of the wrist moving the hand away"* (or words to that effect). Individual C did not think that Pupil F was using a high degree of force. However, she said that Mr Feeney kept repeating *"you've assaulted me, you've pushed me"*.

Individual C's evidence was that having been pushed by Pupil F, Mr Feeney moved his arm back in an exaggerated movement and this resulted in him making contact with Pupil D.

Individual C explained that, in respect of the incident with Pupil F, the pupils were in the classroom for a very short period of time whilst their scheduled location was being confirmed, and there were a number of de-escalation methods Mr Feeney could and should have used. These included giving the pupil a warning to come off of the computer, moving away from the pupil and giving him time and space and refraining from using inflammatory language or accusing the pupil of assault.

Individual C also gave evidence that Mr Feeney disagreed with senior management and the way in which behaviour was dealt with at the School. For example, his view was that pupils should be sent home if they swore.

The panel accepted that Mr Feeney making contact with Pupil D was accidental. However, it was of the view that Mr Feeney should have used other de-escalation techniques in respect of the wider incident with Pupil F and that his failure to do so resulted in an escalation of the problem. The panel accepted Individual C's view that Mr Feeney's hand movement was exaggerated, and that exaggerated movement contributed to the accident.

The panel concluded that Mr Feeney's failure to de-escalate the incident with Pupil F and his overreaction in respect of the level of force used by Pupil F led to a failure to take care to avoid making physical contact with Pupil D. Accordingly, the panel found that the facts of allegation 4 were proven.

5. By your conduct in the following paragraphs you failed to act within statutory frameworks setting out your professional duties and responsibilities

(a) Paragraph 1(a),

(b) Paragraph 1(b),

(c) Paragraph 3(a),

(d) Paragraph 3(b);

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 5(a), (b) and (c). Mr Feeney did not comment further on this allegation in the documentation he provided to the TRA in connection with this matter.

However, in respect of allegations 3(a) and 3(b) the panel noted that during the investigation meeting at the School on 23 April 2018, Mr Feeney stated "*I should never have grabbed his arm but I was acting in his best interests*".

During the course of the hearing, the panel asked the presenting officer to clarify the statutory frameworks relied upon in respect of this allegation. The presenting officer referred the panel to the Education and Inspections Act 2006, the Department for Education's use of reasonable force guidance and the School's behaviour management procedures. Whilst the panel took into account the use of reasonable force guidance, it noted that it was non-statutory guidance. Similarly, the panel noted that the School's behaviour management procedures were not statutory.

The panel noted that, in accordance with s93(1) of the Education and Inspections Act 2006, teachers are permitted to use "*such force as is reasonable in the circumstances*". The panel's view was that Mr Feeney did not use reasonable force in the circumstances because he did not use generally recognised methods of managing behaviour. Furthermore, he did not seek to de-escalate the situations which have become the

subject of this allegation, nor did he use appropriate physical handling techniques (on which he had been trained).

The panel considered that, by his conduct as described in allegations 1(a), 1(b), 3(a) and 3(b), Mr Feeney had failed to act in accordance with s93(1) of the Education and Inspections Act 2006.

The panel was therefore satisfied that allegation 5 was proven.

6. By your conduct in the following paragraphs you failed to maintain high standards of behaviour;

(a) Paragraph 1(c),

(b) Paragraph 2,

(c) Paragraph 3(c);

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 6(a), (b) and (c). Mr Feeney did not comment further on this allegation in the documentation he provided to the TRA in connection with this matter.

As the panel did not find allegations 2(a), 2(b) and 3(c)(ii) proven it did not go on to consider whether they amounted to a failure to maintain high standards of behaviour.

In respect of allegations 1(c) and 3(c)(i), the panel concluded that, by telling Pupil A *“If I wanted to hurt you, you’d know about it”* and calling Pupil C *“a fucking idiot”*, Mr Feeney had failed to maintain the high standards of behaviour expected of a teacher. Whilst the panel appreciated that Mr Feeney no doubt had to deal with some challenging situations, he should have maintained a professional demeanour and responded to such situations in a more appropriate way.

In respect of allegation 2(c), the panel noted that the School’s behaviour policy states that staff members should try not to raise their voices to pupils. As referred to above, during the investigation meeting at the School on 23 April 2018 Mr Feeney acknowledged that he had not acted in accordance with the school’s policy by saying *“Is it school policy – No, but I am only human”*.

Whilst the panel appreciated that there may be occasions where a teacher might need to raise their voice (for example if a pupil was in danger), it was of the view that it was not appropriate for Mr Feeney to shout at Pupil B in the circumstances. Mr Feeney should have sought to deal with the situation in a calmer way. Instead, in his own words, he *“gave him [Pupil B] a right rollicking”*.

The panel concluded that, by Mr Feeney's conduct in respect of allegations 1(c), 2(c) and 3(c)(ii), he failed to maintain high standards of behaviour. The panel therefore found allegation 6 proven in respect of these allegations only.

7. By your conduct in paragraph 4 you failed to take appropriate steps to safeguard pupils' well-being

The panel noted that in his response to the notice of proceedings, Mr Feeney denied allegations 7. Mr Feeney did not comment further on this allegation in the documentation he provided to the TRA in connection with this matter.

The panel concluded that Mr Feeney had failed to take appropriate steps to safeguard Pupil D's wellbeing, given that he could and should have adopted alternative de-escalation methods in respect of the incident involving Pupil F which would in all likelihood have resulted in Mr Feeney not making physical contact with Pupil D.

The panel was therefore satisfied that allegation 7 was proven.

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

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

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

The panel was satisfied that the conduct of Mr Feeney in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Feeney was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - 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
 - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability.

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

The panel was satisfied that the conduct of Mr Feeney amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Accordingly, the panel was satisfied that Mr Feeney was guilty of unacceptable professional conduct.

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

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

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

Having found the facts of allegations 1(a), 1(b), 1(c), 2(c), 3(a), 3(b), 3(c)(i), 4, 5(a), 5(b), 5(c), 5(d), 6(a), 6(b) (but only in respect of allegation 2(c)) and 6(c) (but only in respect of allegation 3(c)(ii)) proved, the panel further found that Mr Feeney's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

The panel had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely the 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 against Mr Feeney, which involved the inappropriate use of language and force towards pupils, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Feeney were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Feeney 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 Feeney.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Feeney. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- a deep-seated attitude that leads to harmful behaviour; and
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils.

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

The panel was of the view that Mr Feeney's actions were deliberate, and there was no evidence to suggest he was acting under duress.

The panel was provided with some character references, which commented positively on Mr Feeney both professionally and personally. The panel considered that there might be a public interest in retaining Mr Feeney in the profession in light of these comments. However, the panel was not provided with detailed information or evidence in this regard in order to enable it to fully assess Mr Feeney's abilities as an educator.

The panel considered a document provided by Mr Feeney to the TRA within which he set out details of the mitigating circumstances upon which he relied as follows:

- The behaviour management policy was, in Mr Feeney's view, applied inconsistently and there was a lack of support and leadership from the School's senior leadership team. Mr Feeney considered that this resulted in detrimental behaviour from pupils and listed a number of concerns in respect of pupil behaviour.
- Mr Feeney believed that, because of his role as union representative and safety representative, he was treated differently to other members of staff.

The panel accepted that Mr Feeney had concerns in respect of the way in which the School was run and the way in which he perceived he had been treated by the School. However, ultimately it did not consider that these mitigating circumstances justified Mr Feeney's conduct. The panel was of the view that, notwithstanding these perceived issues, Mr Feeney should have conducted himself in a more professional manner.

The panel was also mindful that there was no evidence to suggest that Mr Feeney's conduct as described in the allegations had caused any actual physical harm to the pupils concerned, or that his conduct had a significant or adverse impact on them.

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 was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Feeney of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Feeney. Mr Feeney's lack of insight, acceptance or remorse in respect of his conduct was a significant factor in forming that opinion. Whilst the panel considered that Mr Feeney's conduct was not at the most serious end of the spectrum, it was concerned about his lack of insight and the risk that his conduct might be repeated if it did not recommend a prohibition order.

Accordingly, the panel made 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 it to decide to recommend a review period of the order. 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 proved, would militate against the recommendation of a review period. The panel did not find that any of these applied to Mr Feeney.

The panel decided that the findings indicated a situation in which a review period would be appropriate to enable Mr Feeney to reflect on his conduct. As such, 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 2 years to be an adequate period of time to enable Mr Feeney to reflect on his behaviour.

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 both sanction and review period.

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

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

The panel has made a recommendation to the Secretary of State that Mr Michael Feeney should be the subject of a prohibition order, with a review period of 2 years.

In particular, the panel has found that Mr Michael Feeney 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
 - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability.
- 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 finds that the conduct of Mr Feeney fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct 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 Feeney, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, "In the light of the panel's findings against Mr Feeney, which involved the inappropriate use of language and force towards pupils, there was a strong public interest consideration in respect of the protection of pupils."

I have also taken into account the panel's comments on insight and remorse, set out as follows, "The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Feeney. Mr Feeney's lack of insight, acceptance or remorse in respect of his conduct was a significant factor in forming that opinion. Whilst the panel considered that Mr Feeney's conduct was not at the most serious end of the spectrum, it was concerned about his lack of insight and the risk that his conduct might be repeated if it did not recommend a prohibition order." In my judgement, the lack of insight means that

there is some risk of the repetition of this behaviour, and this puts pupils at risk. 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 panel had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely the 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."

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

I have considered whether the publication of a finding of unacceptable professional conduct, 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 Feeney himself and the panel comment "The panel was provided with some character references, which commented positively on Mr Feeney both professionally and personally. The panel considered that there might be a public interest in retaining Mr Feeney in the profession in light of these comments. However, the panel was not provided with detailed information or evidence in this regard in order to enable it to fully assess Mr Feeney's abilities as an educator."

A prohibition order would prevent Mr Feeney from teaching. A prohibition order would also 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 following comment from the panel, "The panel accepted that Mr Feeney had concerns in respect of the way in which the School was run and the way in which he perceived he had been treated by the School. However, ultimately it did not consider that these mitigating circumstances justified Mr Feeney's conduct. The panel was of the view that, notwithstanding these perceived issues, Mr Feeney should have conducted himself in a more professional manner."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Feeney 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, in light of the circumstances in this case, that is not fully 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 intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2 year review period.

I have considered the panel's comments "The panel considered 2 years to be an adequate period of time to enable Mr Feeney to reflect on his behaviour."

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession and in this case, I have decided it does.

This means that Mr Michael Feeney is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 28 July 2023, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Michael Feeney remains prohibited from teaching indefinitely.

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

Mr Michael Feeney 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 'SABuxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 26 July 2021

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