



Teaching
Regulation
Agency

Mr Rhodri Younger: Professional conduct panel outcome

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

January 2023

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

Teacher:	Mr Rhodri Younger
Teacher ref number:	0317772
Teacher date of birth:	5 May 1980
TRA reference:	18245
Date of determination:	25 January 2023
Former employer:	Wakefield Music Services, teaching at the Outwood Grange Academy

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 23 to 25 January 2023 by way of a virtual hearing, to consider the case of Mr Rhodri Younger.

The panel members were Mr Gamel Byles (teacher panellist – in the chair), Mr John Martin (teacher panellist) and Ms Mona Sood (lay panellist).

The legal adviser to the panel was Ms Abigail Trencher of Birketts LLP solicitors.

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

Mr Younger 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 10 November 2022.

It was alleged that Mr Younger was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. Between September 2017 and April 2018, via WhatsApp with Pupil A, he:
 - a) Messaged Pupil A on almost a daily basis with the exception of 18 calendar days within this period;
 - b) Sent Pupil A approximately 2,539 messages (of a total in excess of 4,500 messages exchanged);
 - c) Referred to Pupil A by various nicknames, including:
 - i. “Beastie”;
 - ii. “TBN” (an abbreviation for “Tiny Beastly Ninja”); and
 - iii. “My fav[ourite]”;
 - d) Made references to “cwtch” and requested a “cwtch” from Pupil A on numerous occasions;
 - e) Ended messages with a “x”;
 - f) Commented on Pupil A’s appearance and personality, writing:
 - i. “can I just have some of your slimness”;
 - ii. “I didn’t manage to say it, but you looked lovely this eve!”;
 - iii. “you are very loved & loveable”;
 - iv. “you are an attractive & beautiful person who does not need to change!”;
 - v. “You’d be a good catch for any lucky lad”;
 - vi. “you looked very nice this eve! The colour & style really suits you!”; and
 - vii. “you have a wonderful & gorgeous smile & laugh! I was totally blown away with what u were wearing”;

g) Commented on his relationship with Pupil A, writing:

- i. "there's still much I'd like to get to know about you";
- ii. "I like what we have";
- iii. "one day some who loves you very much will make you feel complete & totally love yourself! I wish I could start that process for you & just be there for you";
- iv. "you drive me crazy in lots of ways";
- v. "you are much more than an it to me & you know that";
- vi. "I wish I could tell you everything that's going on inside it [head]";
- vii. "will we ever 'talk'??";
- viii. "I'd love to hear you be honest & upfront with everything...including feelings";
- ix. That he had "been thinking about [Pupil A] all day";
- x. "I hope one day we can speak openly & honest with each other. I know your feelings are probably nothing & that's ok";
- xi. "am I kidding myself in thinking that you feel anything regards moi?";
- xii. "I know its strange but I thought we had some kind of special connection...I'm not after anything in particular, I just wanted to be honest with you & build on that"; and
- xiii. "you mean a lot to me in more ways than you'll ever realise!";

h) Expressed his wish to spend time alone with Pupil A:

- i. "I can't wait to take you out for a drink...I want to see your full dark side";
and
- ii. "I do wish there was more time to spend with you & get to know you";

2. He gave Pupil A a Christmas present and a birthday present;

3. His conduct set out in the following paragraphs was sexually motivated:

a) Paragraph 1(c);

b) Paragraph 1(d);

- c) Paragraph 1(e);
 - d) Paragraph 1(f);
 - e) Paragraph 1(g); and
 - f) Paragraph 1(h);
4. By his conduct set out in the foregoing paragraphs, he failed to observe a proper boundary appropriate to a teacher's professional position.

Mr Younger admitted allegations 1, 2 and 4, as set out in the summary of agreed and disputed facts. Mr Younger denied allegation 3 in its entirety.

Preliminary applications

Application to proceed in the absence of the teacher

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

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 Younger in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the '2018 Procedures').

The panel concluded that Mr Younger's absence was voluntary and that he was aware that the matter would proceed in his absence. In particular it considered the notice of proceedings completed and signed by Mr Younger on 11 March 2020 which confirmed he would not be attending the hearing, and more recent communications from his trade union representative which confirmed the position had not changed.

The panel noted that Mr Younger had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Younger 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 Younger was neither present nor represented.

Application to admit additional documents

The panel considered four documents which it received from the TRA at the beginning of the hearing. These documents were a mitigation statement from Mr Younger dated 10 March 2020, Mr Younger's completed notice of proceedings dated 11 March 2020 and two emails which confirmed the changes Mr Younger requested be made to the statement of agreed facts and his submission of the mitigation statement and notice of proceedings.

The panel was satisfied that for the purposes of paragraph 4.18 of the 2018 Procedures the documents were relevant to the issues before the panel and that in the interests of justice they should be admitted in to evidence, particularly as the mitigation statement and completed notice of proceedings had been submitted within the time period required.

Application to amend allegations

The presenting officer made an application to amend allegations 1a, 1c.ii and 1h.i so that:

Allegation 1a stated "Messaged Pupil A on almost a daily basis within this period", rather than "Messaged Pupil A on a daily basis with the exception of 18 calendar days within this period".

Allegation 1c.ii. stated "TBN (an abbreviation for "Tiny Beastly Ninja")" instead of "TBN (an abbreviation for "Truly Beastly Ninja")".

Allegation 1h.i stated "I can't wait to take you out for a drink.....I want to see your full dark side" instead of "I can't wait to take you out for a drink.....I want to see your dark side"

The panel noted that the Mr Younger had not been informed of the proposed changes to the allegations but that the change to allegation 1.h.i was proposed in order to reflect the statement of agreed facts in which it was agreed the reference to TBN was an abbreviation for Tiny Beastly Ninja.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the 2018 Procedures.

The panel considered whether the proposed amendments would change the nature and scope of the allegations and the panel was satisfied they would not. The amendments propose to allegation 1.a would simplify the wording of the allegation and the proposed change to allegation 1h.i would merely reflect the full wording of the message it was citing, and which was in the bundle, and which the teacher had accepted he had sent. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations.

The legal adviser drew the panel's attention to the case of *Dr Bashir Ahmedsowida v General Medical Council [2021] EWHC 3466 (Admin), 2021 WL 06064095* which held that the lateness of amendments did not necessarily mean they were unjust, as acknowledged in the previous case of *Professional Standards Authority v Health and Care Professions Council and Doree [2017] EWCA Civ 319 at [56]*.

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

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Chronology and identification key – pages 6 to 7
- Section 2: Notice of hearing and response – pages 8 to 21
- Section 3: TRA witness statements – pages 23 to 31
- Section 4: TRA documents – pages 33 to 491
- Section 5: Teacher witness statements – pages 493 to 516
- Section 6: Teacher documents – pages 518 to 559

In addition, the panel agreed to accept the following documents, which were contained in a new Section 7 and referred to in the section of preliminary applications above:

- Section 7: additional Teacher documents – pages 560 to 568.

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

Witnesses

No witnesses were called to provide oral evidence at the hearing.

Decision and reasons

The panel announced its decision and reasons as follows. It would clarify that whilst some of the messages exchanged between Mr Younger and Pupil A have been included in its reasons below, it has not been possible to replicate the emojis that were used in those messages (apart from in one message):

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

Mr Younger was employed as a non-qualified teacher of percussion at Wakefield Music Services from September 2011 to February 2019. Mr Younger was assigned to Outwood Grange Academy ('the School') where he taught individual pupils, small group lessons, supported ensembles and the orchestra. Significantly to this case Mr Younger was also engaged to provide private tuition to Pupil A and was a family friend of Pupil A's family.

Pupil B disclosed his concerns regarding the relationship between Mr Younger and Pupil A on 24 April 2018. Investigatory interviews were held with pupils and Pupil A's phone was obtained with consent. A referral was also made to the LADO.

Mr Younger was suspended from the School pending the outcome of the investigation on 26 April 2018.

An investigation took place from 26 April 2018 to 3 January 2019. A disciplinary hearing was held on 14 February 2019.

A disciplinary appeal hearing took place on 9 to 10 May 2019 and Mr Younger was summarily dismissed on 17 May 2019.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

- 1. Between September 2017 and April 2018, via WhatsApp with Pupil A, you**
 - a) Messaged Pupil A on almost a daily basis within this period**
 - b) Sent Pupil A approximately 2,539 messages (of a total in excess of 4,500 messages exchanged)**

- c) Referred to Pupil A by various nicknames, including
- i. “Beastie”
 - ii. “TBN” (an abbreviation for “Tiny Beastly Ninja”)
 - iii. “My fav[ourite]”
- d) Made references to “cwtch” and requested a “cwtch” from Pupil A on numerous occasions
- e) Ended messages with a “x”
- f) Commented on Pupil A’s appearance and personality, writing
- i. “can I just have some of your slimness”
 - ii. “I didn’t manage to say it, but you looked lovely this eve!”
 - iii. “you are very loved & loveable”
 - iv. “you are an attractive & beautiful person who does not need to change!”
 - v. “You’d be a good catch for any lucky lad”
 - vi. “you looked very nice this eve! The colour & style really suits you!”
 - vii. “you have a wonderful & gorgeous smile & laugh! I was totally blown away with what u were wearing”
- g) Commented on your relationship with Pupil A, writing
- i. “there’s still much I’d like to get to know about you”
 - ii. “I like what we have”
 - iii. “one day some who loves you very much will make you feel complete & totally love yourself! I wish I could start that process for you & just be there for you”
 - iv. “you drive me crazy in lots of ways”
 - v. “you are much more than an it to me & you know that”
 - vi. “I wish I could tell you everything that’s going on inside it [head]”
 - vii. “will we ever ‘talk’??”

- viii. “I’d love to hear you be honest & upfront with everything...including feelings”
- ix. That you had “been thinking about [Pupil A] all day”
- x. “I hope one day we can speak openly & honest with each other. I know your feelings are probably nothing & that’s ok”
- xi. “am I kidding myself in thinking that you feel anything regards moi?”
- xii. “I know its strange but I thought we had some kind of special connection...I’m not after anything in particular, I just wanted to be honest with you & build on that”
- xiii. “you mean a lot to me in more ways than you’ll ever realise!”

h) Expressed your wish to spend time alone with Pupil A

- i. “I can’t wait to take you out for a drink...I want to see your full dark side”
- ii. “I do wish there was more time to spend with you & get to know you”;

The panel noted that within the statement of agreed facts and Mr Younger’s mitigation statement, Mr Younger admitted allegation 1 in its entirety.

The panel carefully reviewed the transcript of the electronic messages exchanged between Mr Younger and Pupil A, together with screenshots of WhatsApp messages submitted as part of the bundle. The panel found the full transcript of the messages in the bundle very telling.

The panel was satisfied that the reference to “cwtch” in allegation 1 d) was a reference to the Welsh word for cuddle, and that the reference to “x” in allegation 1 e) in the messages was to denote a kiss.

The panel found allegation 1(a) to 1(h) proven.

2. You gave Pupil A a Christmas present and a birthday present;

The panel noted that in the statement of agreed facts and his mitigation statement, Mr Younger admitted that he gave Pupil A Christmas and birthday gifts.

Mr Younger submitted that the only gifts given were to friends and fellow band/percussion players as a token of his appreciation for all their effort, Mr Younger stated that Pupil A would fall into these categories, particularly as he was a family friend

of Pupil A's family. Pupil A was not the sole recipient of gifts from Mr Younger. The panel was satisfied that the gifts were of nominal value and appropriate to the recipient.

The panel found allegation 2 proven.

3. Your conduct set out in the following paragraphs was sexually motivated

- a) Paragraph 1(c)**
- b) Paragraph 1(d)**
- c) Paragraph 1(e)**
- d) Paragraph 1(f)**
- e) Paragraph 1(g)**
- f) Paragraph 1(h);**

The panel noted that within the summary of agreed and disputed facts, Mr Younger denied allegation 3 in its entirety.

The panel's attention was drawn to section 78 *Sexual Offences Act 2003* and to the cases of *Sait v The General Medical Council [2018]*, *Basson v General Medical Council [2018]* and *The General Medical Council v Haris [2020] EWHC 2518*.

The panel considered whether the conduct was sexually motivated. It noted that in *Basson* it was stated that "A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship".

The panel also considered the judgement of the High Court and the Court of Appeal in the case of *The General Medical Council v Haris [2020] EHC 2518* and *Haris v The General Medical Council [2021] EWCA Civ 763*, respectively. In particular, that in order to determine sexual motive the panel is required to consider whether on a balance of probability such motive is proved by inference or deduction from the surrounding evidence, including the absence of a plausible innocent explanation.

The panel considered the documents before it. In particular, the 163 pages containing the transcript of messages between Mr Younger and Pupil A, as well as the response Mr Younger gave in respect of those messages during the disciplinary investigation that was conducted by Wakefield Council.

The panel was satisfied that the messages exchanged between Mr Younger and Pupil A were inappropriate and significantly overstepped the boundary of the professional relationship expected of a member of the teaching profession with a pupil. The question it

needed to determine, however, was whether Mr Younger's conduct was sexually motivated.

There were no specific messages that could be said to be overtly sexual in nature. However, the panel was concerned about the volume, timing and content of the messages. It was clear from the evidence that from September 2017 to April 2018 Mr Younger and Pupil A were exchanging multiple messages on an almost daily basis, apart from a period of about 18 days, and were doing so typically first thing in the morning and late in the night.

When looked at individually the messages appear to start innocuously in line with Mr Younger's assertion during the disciplinary investigation conducted by Wakefield Council and in his mitigation statement that his intention was to help raise Pupil A's confidence. The panel, however, considered that by December 2017 the tone and content of Mr Younger's messages took a more intense and personal turn. The panel thought they became more disturbing in nature.

The panel was mindful that in many of the conversations Mr Younger strayed into territory which was personal and seeking to elicit from Pupil A private information and assurances of her feelings, on which points she usually would not be drawn. Whilst Pupil A engaged in the message exchange, she did not respond in the same manner. The intensity with which Mr Younger requested disclosures of this kind increased over time. The panel was concerned that in doing so, Mr Younger was attempting to manipulate Pupil A, possibly unwittingly, by making her feel guilty when she did not respond in the manner in which he wanted.

The panel was particularly drawn to the comments Pupil A made towards the end of the transcript of messages in the bundle in which Pupil A made two comments as follows:

On 21 April 2018 at 21:21 she stated: *"It was just the questions you were asking like what do you think of our relationship and something and I didn't know what to say Cos I didn't want to say the wrong thing and it made me a bit uncomfortable. Sorry"*.

The next day at 13:47 she stated: *"Noooo don't be upset, I feel so guilty! Bye???"*.

The panel considered that the messages from Mr Younger that gave rise to the above responses were completely inappropriate for an adult to send to a child.

The panel also considered that some of the messages sent by Mr Younger (RY) suggested an intention toward Pupil A, for example the following:

23/12/2017, 21:44:09 RY: *"Wow! That's good! Is your flirting getting better in French? x"*

23/12/2017, 21:45:09 RY: *"Why would it be funny? I can't wait to take you out for a drink... I want to see your full dark side x"*

The panel was concerned at the reference to flirting in an email sent immediately before another which indicated he wanted to take Pupil A out for a drink. In the same chain Mr Younger states:

23/12/2017, 21:56:18 RY: " Hehe! Really?? How do I get to see that side of you before then? Almost a year closer soon. Ninja is Ninja. Surely you should know that TBN x".

The panel considered this message indicated Mr Younger was referring to Pupil A's birthday in [REDACTED] when she would turn [REDACTED]. The panel inferred that the mention to 'a year closer' that Mr Younger was referring to when Pupil A would turn [REDACTED].

Whilst the panel does not consider Mr Younger began messaging Pupil A with a sexual motive, it appears from the content of the messages that his intentions towards Pupil A changed, whether consciously or unconsciously. The panel considered that when viewed collectively over the period in which the messages in the bundle were sent, from September 2017 to April 2018, Mr Younger appears to have become infatuated with Pupil A, which would explain the growing intensity in the messages.

The panel concluded that from December 2017 there was evidence that Mr Younger was in pursuit of something. On a balance of probability, given the nature, timings and volume of the messages, which had nothing to do with their common area of interest, music, the panel concluded that Mr Younger was motivated by the pursuit of an intimate relationship with Pupil A.

The panel then considered if there was a plausible innocent explanation to the volume, timing and content of the messages Mr Younger had sent to Pupil A. It considered the primary reasons he had given during the disciplinary investigation conducted by Wakefield Council and in his statement of mitigation, namely a continuation of the close family friendship and to boost Pupil A's confidence. The panel also took into account the numerous glowing references included in the bundle which spoke of Mr Younger's teaching ability and character when considering the likelihood that Mr Younger would have committed the conduct alleged.

Whilst the panel had no difficulty in accepting that Mr Younger was a good teacher, who was able to inspire his students, as endorsed by the various character references, it also had regard to the fact that the authors of the references could not be challenged, as they gave no oral evidence at the hearing. In addition, there was nothing in the bundle that confirmed the authors of the references were aware of the nature, numbers and timings of the messages exchanged between Mr Younger and Pupil A.

Overall, therefore, the panel could find no plausible, innocent explanation for why Mr Younger would engage in such a high volume of messaging with a [REDACTED] child of the timings and content as he did. The panel considered the evolving intensity of the

messages content over the relevant period. Whilst Mr Younger did not use sexually explicit language there was a desire in his messages, which built over time. The panel deduced it was a desire to have an intimate relationship with Pupil A. As such, the panel concluded it was a desire to have a possible future sexual relationship with Pupil A. Mr Younger's messages referenced feelings and emotions designed to elicit personal feelings and assurances from Pupil A.

Examples of the types of messages the panel considered included:

02/03/2018, 22:45:52 RY *"This may sound strange but I do wish there was more time to spend with you & get to know you...if u know what I mean? I always feel it's very fragmented. Hope u feel the same & not like....no way, clear off x"*

22/03/2018, 23:36:59 RY *"I'd love to hear you be honest & upfront with everything... including feelings...esp towards... your fav bully x"*

29/03/2018, 23:30:02 RY *"I'll make it easy ... just answer a yes or no... am I kidding myself in thinking that you feel anything regards moi? If the question is too much just swear at me x"*

04/04/2018, 22:40:46 RY *"I know it's strange but I thought we had some kind of special connection...I'm not after anything in particular, I just wanted to be honest with you & build on that. One day you'll feel comfortable & able to express all your feelings to the right person! I am a little ☺ but I will not mention it again. I can't even figure out in my head what I'm actually feeling. I will say this thou...I will always be here to listen to you.... whatever you want to say... good or bad! I'm going to shut up now...it's probably a good idea. Big cwtches always xx "*

18/04/2018, 20:05:01 RY *"It was lovely seeing you this eve! You are a total joy to be around! You make me smile etc. I am sorry however that I say the things I have, but you are the only person I can say them to without sounding too weird. I can't event seem to get my head straight & help the way that I feel... do you know what I mean? I know you can't & don't say things, but I just wish I knew you thoughts & stuff. I get one feeling & then on the other hand a totally different one. I think I will just simply disappear one day & then see what happens. I don't think I'll be missed by the one person that I would like to miss me x"*

The panel took into consideration that during Mr Younger's investigation meeting with Wakefield Council he accepted, in relation to the extensive messages, that his intention was to continue to 'build his relationship' with Pupil A. He also admitted that he had not realised how emotionally attached he had become with Pupil A.

When viewed in their entirety, and noting the timings, volume and growing intensity of the messages, the panel concluded that in the course of the message exchange it was more

likely than not that Mr Younger's feelings had changed. Whilst the panel believed his intentions were innocent initially, it believes that, over time, his intentions changed to that of being motivated by the pursuit of a future relationship with Pupil A. In the absence of a plausible innocent explanation, the panel concluded that, on balance, his conduct in sending the messages that he did, over a sustained duration of time, became sexually motivated.

The panel found allegation 3 proven.

4. By your conduct set out in the foregoing paragraphs, you failed to observe a proper boundary appropriate to a teacher's professional position.

The panel noted that within the statement of agreed facts, Mr Younger admitted allegation 4.

The panel was satisfied that the exchange of gifts found proved at allegation 2 was explained and justified given the family friendship between Mr Younger and Pupil A's family.

In respect of the conduct found proved at allegation 1, the panel was in no doubt that Mr Younger failed to observe proper boundaries. The panel would not expect a teacher to be exchanging messages with a pupil on a personal device. However, it accepted that as Mr Younger was engaged in providing private tuition to Pupil A, in addition to being her teacher, that some level of relevant communication would be understandable.

The content, volume and timings of the messages set out in the bundle, however, were inappropriate. Such conduct crossed the necessary professional boundaries that must exist between teacher and pupil.

The panel found allegation 4 proven.

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

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

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 Younger, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Younger 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- 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 Younger amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Younger's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The panel found that none of these offences was relevant.

The panel noted that the allegations took place outside the education setting in that Mr Younger was communicating with Pupil A outside of school hours. However, given that Pupil A was a current pupil of Mr Younger's, the panel considered Mr Younger's actions were relevant to his profession as a teacher.

Accordingly, the panel was satisfied that Mr Younger 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 the individual's status as a teacher, potentially damaging the public perception. The panel had no doubt that the public would take exception to the content, timing and volume of the messages sent by Mr Younger to Pupil A, which had no relevance to his teaching.

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

Having found the facts of allegations 1(a)-1(i), 2, 3(a)-3(f) and 4 proved, the panel found that Mr Younger's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Younger, which involved sending messages to Pupil A of inappropriate volume, content and timings – which the panel concluded was sexually motivated, 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 Younger was not treated with the utmost seriousness when regulating the conduct of the profession.

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

The panel considered whether there was a strong public interest consideration in retaining Mr Younger in the profession, since no doubt had been cast upon his abilities as an educator or that he was able to make a valuable contribution to the profession. Indeed, the various character references confirmed he was a valued teacher.

When having regard to the public interest considerations both in favour of, and against, prohibition, as well as the interests of Mr Younger, the panel determined it would be proportionate to impose a prohibition order, despite the effect that this would have on Mr Younger. The panel was satisfied that doing so struck the right balance between the rights of the teacher and the public interest.

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;
- abuse of position or trust (particularly involving pupils);
- any abuse of any trust, knowledge or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

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

There was no evidence that Mr Younger's actions were not deliberate.

There was no evidence to suggest that Mr Younger was acting under extreme duress.

No evidence was submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Younger contributed significantly to the education sector.

A number of character references were submitted on behalf of Mr Younger to attest to his ability as a teacher. In particular, the panel noted the following comments:

- [REDACTED]:
 - *Our own children play several instruments each and therefore have been taught by many music teachers but they regard Rhodri as the best by far.*

- *Thanks to his tuition, dedication and encouragement our children have been inspired to continue with their music. Our [REDACTED] has gone on to play percussion with [REDACTED] along with many other orchestras and bands in his local area and our [REDACTED] now plays percussion with [REDACTED], a championship section brass band.*
- [REDACTED]
 - *I have always been absolutely satisfied with the way in which Rhodri conducted himself and can confirm his absolute commitment to his teaching role.*
 - *As a private tutor, Rhodri is extremely skilled and able. He praised, encouraged and developed my son's percussion skills more than any other teacher had and in a most professional manner.*
- [REDACTED], former pupil of Mr Younger's:
 - *"Rhodri is incredibly passionate about the art of percussion, and always goes above and beyond for his pupils. It was always clear that he valued commitment and punctuality from his students, as he would often give an extended lesson for those who put in the most effort towards their practice and development as a musician."*
 - *"It is clear that Rhodri is well respected from his colleagues and the parents of his pupils, as they recognise the effort that he puts into his teaching in order for his students to get the most out of their performances."*

The panel, however, was mindful that the references were given in 2019 and in relation to his employer's internal disciplinary proceedings. In addition, there was no evidence that the authors were aware of the content, volume and timings of the messages exchanged between Mr Younger and Pupil A. No new or additional character references were produced for the purpose of the TRA's proceedings and no oral evidence was given before the panel that could be challenged.

Mr Younger was not present, nor represented at the hearing but he did provide a mitigation statement in March 2020. This provided limited insight and remorse for his actions.

The panel 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 Younger 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 Younger. 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 found that Mr Younger was responsible for engaging in communication with Pupil A which was sexually motivated which was one such behaviour.

The panel considered whether a review period should be recommended. Overall, the panel concluded that it should. The panel had determined that whilst Mr Younger's conduct was very serious, it was limited to one pupil and in circumstances which the panel had concluded were specific to that pupil. The panel did not consider, on the evidence before it, that Mr Younger posed a wider risk to other pupils or that he was a callous predator. The panel also considered that with time to properly reflect, Mr Younger would be capable of demonstrating greater insight and remorse. For these reasons, the panel considered that it would be proportionate for the prohibition order to be recommended with provision for a 5 year 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 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 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 Rhodri Younger should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Mr Younger is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The findings of misconduct are particularly serious as they include a finding of, "engaging in communication with Pupil A which was sexually motivated".

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 Younger, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has stated, "the panel's findings against Mr Younger, which involved sending messages to Pupil A of inappropriate volume, content and timings – which the panel concluded was sexually motivated,". A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Younger was not present, nor represented at the hearing but he did provide a mitigation statement in March 2020. This provided limited insight and remorse for his actions." In my judgement, the lack of full insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. 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 findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception. The panel had no doubt that the public would take exception to the content, timing and volume of the messages sent by Mr Younger to Pupil A, which had no relevance to his teaching."

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

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

I have considered whether the publication of a finding of unacceptable professional conduct, 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 Younger himself. The panel comment "there was no evidence that the authors were aware of the content, volume and timings of the messages exchanged between Mr Younger and Pupil A. No new or additional character references were produced for the purpose of the TRA's proceedings and no oral evidence was given before the panel that could be challenged."

A prohibition order would prevent Mr Younger from teaching and 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 panel's comments, "The panel was satisfied that the conduct of Mr Younger amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Younger 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 backed up by full 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 5 year review period.

I have considered the panel's comments "The panel had determined that whilst Mr Younger's conduct was very serious, it was limited to one pupil and in circumstances which the panel had concluded were specific to that pupil. The panel did not consider, on the evidence before it, that Mr Younger posed a wider risk to other pupils or that he was a callous predator. The panel also considered that with time to properly reflect, Mr Younger would be capable of demonstrating greater insight and remorse.

I have considered whether a 5 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. In this case, there are factors which mean that allowing a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the sexual element of the case and the lack of full insight and remorse.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Rhodri Younger 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 2 February 2028, 5 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 Rhodri Younger remains prohibited from teaching indefinitely.

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

Mr Rhodri Younger has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.



Decision maker: Alan Meyrick

Date: 27 January 2023

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