



Teaching  
Regulation  
Agency

# **Mr Joshua Sutcliffe: Professional conduct panel outcome**

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

**May 2023**

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

<b>Teacher:</b>	Mr Joshua Sutcliffe
<b>Teacher ref number:</b>	1241663
<b>Teacher date of birth:</b>	5 June 1990
<b>TRA reference:</b>	0017091
<b>Date of determination:</b>	5 May 2023
<b>Former employer:</b>	The Cherwell School, Oxford

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 - 13 January 2023 and 27 February 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, on 29 March 2023 and 5 April 2023 by virtual means and on 2 – 4 May 2023 at Cheylesmore House to consider the case of Mr Sutcliffe.

The panel members were Mr John Martin (teacher panellist – in the chair), Mrs Shabana Robertson (lay panellist) and Mrs Melissa West (teacher panellist).

The legal adviser to the panel was Miss Francesca Poole of Eversheds Sutherland.

The presenting officer for the TRA was Mr Andrew Cullen of Browne Jacobson Solicitors.

Mr Sutcliffe was present and was represented by Mr Michael Phillips of Andrew Storch Solicitors.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 22 August 2022.

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

1. whilst employed as a Maths Teacher at The Cherwell School between September 2015 and February 2018, he:

a) On one or more occasions, failed to use Pupil A's preferred pronoun, including:

- i. In the classroom during teaching;
- ii. Whilst appearing on a nationally televised programme "This Morning";
- iii. Within an email to the school, dated 8 December 2017;

b) On one or more occasions, expressed his views to pupils on the wrongfulness of equal marriage and/or homosexuality during Maths lessons, by making the following comments, or comments to the effect of:

- i. He was against gay marriage;
- ii. Person D through God had stopped being gay as it was wrong.

2. whilst employed as a Maths teacher at St Aloysius College, Islington, between September 2018 and November 2018, he engaged in inappropriate and/or unprofessional behaviour, including by:

a) On or around 18 October 2019, during the school day, showing pupils a video(s) about masculinity, which contained inappropriate comments, including the following comments, or comments to the effect of:

- i. The growing problem in today's society is that men are not masculine enough;
- ii. When men deny their masculinity, they run away from responsibilities leaving destruction and devastation in their wake;
- iii. Children who grow up without a father are generally more depressed than their peers who have a mother and father. They are at a far greater risk of incarceration, teen pregnancy, and poverty. 71% of High School dropouts are fatherless;
- iv. Woman want real men...I don't know any woman of any age who is attracted to a passive man who looks to her to be his provider, protector, and leader;

v. Passive men don't defend, protect, or provide. Passive men do not lead;

b) In or around October – November 2019, encouraging or directing pupils to watch his YouTube channel/profile and/or uploading one of more videos to his YouTube account/profile, which contained inappropriate content, including the following comments, or comments to the effect of:

i. "Mohammed is a false prophet";

ii. "If we look at Islam in the modern generation, we see that many people go out killing in the name of Allah";

iii. "I would suggest that Muslims have a false understanding of God because they've been led by a false prophet";

iv. "the Fruit of Islam is not peace, it's division";

v. "it's the beginning of a great evil in this land when we're not able to speak against Islam";

vi. "Joseph Smith is a false prophet... these are false and destructive heresies".

3. His conduct as may be found proven at allegations 1-2 demonstrated a failure to treat pupils with dignity and/or respect and/or a failure to safeguard pupils' well-being.

Mr Sutcliffe denied all allegations.

Mr Sutcliffe did not therefore admit that the allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## Preliminary applications

### Application to amend allegations

The panel considered an application from the presenting officer to amend the allegations by:

- (1) amending allegation 1(a) from 'on one or more occasions, failed to use Pupil A's preferred pronoun, including' to 'on one or more occasions, failed to use Pupil A's preferred pronoun'
- (2) amending allegation 2 from 'whilst employed as a Maths teacher at St Aloysius College, Islington, between September 2018 and **November 2018**, you engaged in inappropriate and/or unprofessional behaviour, including by' to 'whilst employed as a Maths teacher at St Aloysius College, Islington, between September 2018 and **November 2019**, you engaged in inappropriate and/or unprofessional behaviour, by'

- (3) amending allegation 2(b) from 'In or around October – November 2019, encouraging or directing pupils to watch your YouTube channel/profile and/or uploading **one of more** videos to your YouTube account/profile' to 'In or around October – November 2019, encouraging or directing pupils to watch your YouTube channel/profile and/or uploading **one or more** videos to your YouTube account/profile'
- (4) amending allegation 3 from 'Your conduct as may be found proven at **allegations 1-2** demonstrated' to 'Your conduct as may be found proven at **allegations 1 and/or 2** demonstrated.'

The teacher's representative consented to the amendments. The panel considered that the amendments proposed were in the main typographical errors and did not change the nature, scope or seriousness of the allegations. In relation to the removal of the word 'including', the panel considered this necessary in order to ensure the allegations were clear. The panel decided that there was no prospect of the teacher's case being presented differently had the amendments been made at an earlier stage, and therefore no unfairness or prejudice was caused to the teacher. The panel therefore decided to amend the allegations as proposed.

### **Application to apply vulnerable witness measures**

The presenting officer applied for the following vulnerable witness measures to be put in place and provided the panel with a bundle of 25 pages in support of the application:

- (1) For Pupil A's evidence to be heard in private;
- (2) For Pupil A to have a witness supporter;
- (3) For Pupil F to have a witness supporter; and
- (4) For Person A at The Cherwell School to attend virtually.

The teacher's representative consented to the application, save for application (1) which was contested. It had been decided at a case management hearing that Pupil A and Pupil F were considered to be vulnerable witnesses and to have the benefit of special measures.

### Application 1

The teacher's representative argued that the teacher had a right to a public and open hearing and that the other measures afforded to Pupil A were sufficient to safeguard Pupil A. The presenting officer argued that the application was necessary to ensure the panel was presented with the best evidence from Pupil A. The panel found that the request to hear Pupil A's evidence in private was a reasonable one to safeguard Pupil A's interests as a vulnerable witness. The panel noted that to ensure that the hearing is as fair as possible, the panel would wish to glean the best evidence from Pupil A. The panel found that these measures would not compromise the ability for Pupil A's evidence to be tested.

## Applications 2, 3 and 4

In respect of Pupil A and Pupil F's quality of evidence and welfare, the presenting officer submitted that the special measures would ease Pupil A and Pupil F's anxiety prior to and during the hearing. The panel noted that they had already found both Pupils A and F to be vulnerable witnesses with the benefit of special measures, including:

1. Pupil A is to be treated as a vulnerable witness;
2. Pupil A is to have special measures available, specifically:
  - a. Pupil A to attend via video link;
  - b. The teacher not to be visible on Pupil A's screen;
  - c. The teacher not to be permitted to ask Pupil A questions directly.
3. Pupil F is to be treated as a vulnerable witness;
4. Pupil F is to have special measures available, specifically, to attend via video link.

In respect of the interests of justice, and the just and efficient management of the case, given the relevance of Pupils A and F's evidence to the facts surrounding the allegations, the presenting officer submitted that it was important that the panel hear from Pupils A and F.

The panel noted that the applications were not contested. The panel considered the additional special measures and found that these would enable both Pupils A and F to give the best possible evidence in the circumstances.

In respect of Person A of The Cherwell School, the presenting officer submitted that attending virtually would enable her to provide her evidence alongside her professional commitments and childcare arrangements. The panel noted that the teacher's representative consented to this application. The panel concluded that, whilst not a vulnerable witness, this request was a reasonable one.

## Application 5

Part way through Pupil B's evidence, the presenting officer applied for Pupil B to give evidence by video link. The panel noted that the application was not contested. The panel concluded that this request was a reasonable one and that the measures would enable Pupil B to provide the best possible evidence in the circumstances.

## **Expert evidence**

The teacher's representative applied to admit three witness statements into evidence, by way of 'expert' opinion:

- (1) two witness statements of a theologian
- (2) a witness statement of a headteacher at a denominational school
- (3) a witness statement of an executive director of relevant charity

The panel noted that the presenting officer consented to the application to admit the two witness statements of a theologian and therefore agreed to admit both statements.

The panel considered the application to admit statements (2) and (3) as additional evidence, having regard to the headline terms of both statements. The panel considered that whilst some elements of these statements may be relevant, that it would not be fair to admit the statements as the panel did not consider the headteacher at a denominational school or the executive director of a relevant charity to offer any additional specialist or technical knowledge. Having reviewed both witnesses' biographical details, the panel was not persuaded that either had the requisite knowledge or experience to opine on all of the headline terms. The panel noted that some of the headline terms could be dealt with by way of submissions by the teacher's representative. The panel therefore concluded that the admission of the two witness statements as expert evidence was unnecessary.

The teacher's representative applied for the panel to reconsider its earlier decision at the close of the TRA's evidence to admit these two witness statements into evidence. The teacher's representative provided further information about the substance of these reports. The panel decided to read the statements of the headteacher at a denominational school and the executive director of a relevant charity in order to consider whether they would be relevant to the case. Based on the further information provided to the panel, the panel identified that there was specialist and technical knowledge of these witnesses that was not indicated within the original application. The panel decided that there were elements of the witness statements that it may be necessary for the panel to consider, bearing in mind that the panel has a discretion to consider the weight to be attributed to the evidence.

## **Summary of evidence**

### **Documents**

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

Section 1: Notice of proceedings – pages 8 to 15

Section 2: Anonymised pupil list and chronology – pages 17 to 19

Section 3: Teaching Regulation Agency documents – pages 22 to 321

Section 4: Teacher documents – pages 324 to 408

In addition, the panel agreed to accept the following:

Two witness statements of a theologian

A witness statement of a headteacher at a denominational school



A witness statement of an executive director of relevant charity

List of agreed YouTube videos

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. The panel also watched the agreed YouTube videos during the course of the hearing.

## **Witnesses**

The panel heard oral evidence from:

### **Called by TRA**

Pupil A – former pupil of The Cherwell School

Pupil B – former pupil of The Cherwell School

Pupil F – former pupil of St Aloysius College

Person A at The Cherwell School

### **Called by Teacher**

Joshua Sutcliffe - Teacher

A theologian

A headteacher at a denominational school

An executive director of relevant charity

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

On 1 September 2015, Mr Sutcliffe commenced employment at The Cherwell School.

Upon receipt of a complaint from Pupil A's parent on 2 November 2017, Mr Sutcliffe was relieved of his classroom teaching duties and worked in the school staffroom while The Cherwell School conducted an investigation into Mr Sutcliffe's conduct.

On 8 November 2017, Mr Sutcliffe was informed that he was required to attend a disciplinary hearing on 15 November 2017.

On 13 November 2017, Mr Sutcliffe did not attend The Cherwell school and appeared on the television programme 'This Morning'.

On 13 November 2017, Mr Sutcliffe was suspended by The Cherwell school.

On 31 January 2018, a disciplinary hearing was held at The Cherwell school. Mr Sutcliffe was not in attendance. He was subsequently dismissed from his position at the school.

In September 2018, Mr Sutcliffe commenced employment at St Aloysius College, Islington.

On 18 October 2019, Pupil F's parent made a complaint regarding Mr Sutcliffe. On 1 November 2019, another pupil's parent made a complaint regarding Mr Sutcliffe. On the same day, Mr Sutcliffe resigned from his position.

## **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. whilst employed as a Maths Teacher at The Cherwell School between September 2015 and February 2018, you:**

#### **a) On one or more occasions, failed to use Pupil A's preferred pronoun:**

##### **i. In the classroom during teaching;**

The panel heard from Pupil A and Person A that Pupil A was a transgender male pupil when he enrolled at The Cherwell School. The panel heard from Pupil A and Person A that Pupil A presented as male and had been regarded as a transgender male by the school. The panel heard from both Pupil A and Person A that Pupil A was referred to using preferred pronouns he/him. The panel accepted that Pupil A was a transgender male, who used preferred pronouns he/him.

The factual element of this allegation was admitted by Mr Sutcliffe, in that Mr Sutcliffe admitted that he failed to use Pupil A's preferred pronoun on one occasion during a Maths lesson where he praised a group of students that included Pupil A by stating 'well done girls' or words to that effect. Mr Sutcliffe claimed that this was not intentional, but was a 'slip of the tongue', and that he apologised immediately.

The panel noted some inconsistencies in Mr Sutcliffe's evidence regarding this incident. Mr Sutcliffe had initially stated during The Cherwell School's investigation that in making the comment 'well done girls', he was only referring to a pair of students, Pupil A and a fellow pupil. However, the panel noted that Mr Sutcliffe later stated in his interview on 'This Morning' that the comment was made in reference to 'a small working group' of

students. The panel noted that in Mr Sutcliffe's witness statement, Mr Sutcliffe made reference to 'a group of students'.

On 2 November 2017, Pupil A's parent made a complaint to The Cherwell School by email. Pupil A's parent raised a number of concerns with The Cherwell School including that Mr Sutcliffe frequently misgendered Pupil A and had aired his views about the wrongness of equal marriage in Maths classes.

The panel heard from Pupil A and Pupil B in relation to allegation 1(a)(i). The panel noted that both Pupil A and Pupil B's evidence differed from that of Mr Sutcliffe.

Neither Pupil A nor Pupil B could recall an incident where Mr Sutcliffe used the phrase 'well done girls' when referring to Pupil A and one or more other pupils. Pupil A gave evidence that Mr Sutcliffe had failed to use Pupil A's preferred pronoun on five or six occasions.

Pupil A recalled two instances with detail. On one occasion Mr Sutcliffe was speaking to Pupil D who was sat next to Pupil A. Pupil A recalled Mr Sutcliffe referring to Pupil A as 'she' stating something to the effect of 'look at what she did' or 'do it the way she has done'. Pupil A gave evidence that when using the word 'she', Mr Sutcliffe did so quietly in order that Pupil D could not hear. On another occasion, Pupil A recalled Mr Sutcliffe referring to Pupil A when addressing the class, stating 'I borrowed her calculator'.

In addition, Pupil A also recalled Mr Sutcliffe referring to him as 'she' on a number of further occasions quietly so other pupils could not hear. [Redacted].

Pupil B gave evidence that although her memory was 'hazy', she was 'pretty sure' that she could recall Mr Sutcliffe referring to Pupil A as 'she' on at least one occasion. Pupil B gave evidence that she recalled the class members were shocked and that the other pupils asked Pupil A if he was ok.

The panel also considered notes from two interviews with two members of Pupil A's same Maths class conducted by Person A, one with Pupil E and one with an unidentified pupil. The panel noted that although this was hearsay evidence, it was not the sole and decisive evidence in support of the allegation. The panel found the evidence to be admissible. Whilst the panel attached less weight to Pupil E's account than oral evidence given by Pupils A and B, the panel noted that Pupil E's account supported Pupil A's evidence that Mr Sutcliffe had failed to use Pupil A's preferred pronoun when talking about a calculator.

Whilst the panel attached less weight to the unidentified pupil's account than oral evidence given by Pupil A and B, the panel noted that the unidentified pupil stated that there was an occasion where Mr Sutcliffe had failed to use Pupil A's preferred pronoun when he was praising Pupil A. However, this pupil noted it was not the occasion Mr Sutcliffe described on 'This Morning' where Mr Sutcliffe had claimed that he had said 'well done girls' to a group of pupils that included Pupil A.

Given the evidence of the pupils that Mr Sutcliffe had failed to use Pupil A's pronoun on various occasions and Mr Sutcliffe's own admission that he had failed to use Pupil A's pronoun on one occasion, the panel found that it was more probable than not that Mr Sutcliffe had failed to use Pupil A's preferred pronoun in the classroom during teaching on one or more occasions.

The panel found this allegation proven.

## **ii. Whilst appearing on a nationally televised programme "This Morning";**

On 13 November 2017, Mr Sutcliffe appeared on 'This Morning' ITV programme.

The panel had regard to the transcript of Mr Sutcliffe's attendance on 'This Morning' on 13 November 2017. During Mr Sutcliffe's appearance, he made reference to an incident in his Maths class whereby he had said 'well done girls' to a group of pupils including Pupil A. The panel found that Mr Sutcliffe used the female pronoun on multiple occasions during the interview when referring to Pupil A.

Mr Sutcliffe accepted that he had not used Pupil A's preferred pronoun whilst on 'This Morning' on 13 November 2017.

In light of the transcript of the programme and Mr Sutcliffe's admission, the panel found this allegation proven.

## **iii. Within an email to the school, dated 8 December 2017;**

The panel had regard to an email from Mr Sutcliffe to Person B dated 8 December 2017. The panel noted that Mr Sutcliffe wrote in the email 'I referred to the 'transgender' pupil only by her chosen name and avoided using any gender-specific pronouns referring to her.'

In light of the contents of this email the panel found Mr Sutcliffe had failed to use Pupil A's preferred pronoun within an email to the school on 8 December 2017.

The panel found this allegation proven.

## **b) On one or more occasions, expressed your views to pupils on the wrongfulness of equal marriage and/or homosexuality during Maths lessons, by making the following comments, or comments to the effect of:**

### **i. You were against gay marriage;**

The panel heard from Mr Sutcliffe who gave evidence that he had made a comment to the effect that he was against gay marriage. However, Mr Sutcliffe gave evidence that this comment had been made in Bible Club and not during Maths lessons.

The panel heard evidence from Pupil A who recalled Mr Sutcliffe stating in Maths class that he was against gay marriage. The panel noted that this was supported by Pupil B's evidence. Pupil B gave evidence that Pupil A and Pupil B had witnessed Mr Sutcliffe at a Pride march in June 2017, where Mr Sutcliffe provided Pupil A and Pupil B with a leaflet entitled 'Jesus and the Third Gender'. The panel noted that Mr Sutcliffe accepted that he had seen Pupil A and B at the Pride march and that he had handed them this leaflet. Pupil B gave oral evidence that following this event, Pupil A and Pupil B had asked Mr Sutcliffe directly for his opinion on gay marriage in a Maths lesson and that Mr Sutcliffe had responded that he did not agree with it.

The panel also heard evidence from Pupil A and B that Mr Sutcliffe would often talk about religious matters in Maths lessons. The panel noted that this was supported by the notes taken by Person A from interviews with other pupils taught Maths by Mr Sutcliffe. Whilst these pupils did not attend to give oral evidence, the panel considered that such notes were admissible since they were not the sole or decisive evidence in support of any allegation. The panel did not attach as much weight to the evidence of these other pupils in the Maths lessons as to the oral evidence of Pupils A and B. However, the panel noted that the evidence of these other pupils corroborated Pupil A and Pupil B's account of Mr Sutcliffe discussing religious matters during the course of Maths lessons.

The panel had regard to evidence in the form of written interview notes from pupils who had attended the Bible Club, that Mr Sutcliffe had made a comment to the effect that he was against gay marriage. Although this evidence was hearsay, to which the panel attributed less weight, the panel found that it was not the sole or decisive evidence on this matter. The panel also noted Mr Sutcliffe's evidence was that this comment had been made in Bible Club, and therefore found that it was more likely than not that Mr Sutcliffe had also made a comment in Bible Club to the effect that he was against gay marriage.

The panel heard evidence from Pupil A and Pupil B that neither pupil had ever attended the Bible Club. The panel found this evidence to be consistent and therefore found neither Pupil A or B had attended the Bible Club. The panel considered that there was no risk that Pupil A and Pupil B had misremembered the location of the comments.

Given the consistency of the accounts that Mr Sutcliffe often discussed religious matters during the course of Maths lessons, and the panel's finding that Pupil A and Pupil B never attended the Bible Club, the panel found it more likely than not that Mr Sutcliffe had made a comment that he was against gay marriage during Maths lessons.

The panel found this allegation proven.

## **ii. Person D through God had stopped being gay as it was wrong.**

The panel heard from Mr Sutcliffe who gave evidence that he had made a comment to the effect that Person D had stopped being gay as it was wrong, but that this had taken place in the Bible Club and not during a Maths lesson.

The panel heard evidence from Pupil A who recalled Mr Sutcliffe approaching Pupil A and Pupil B who were having a conversation about a music band in a Maths lesson. Pupil A recalled Mr Sutcliffe interjecting and talking about Person D who had stopped being gay as it was wrong. Pupil B could recall Mr Sutcliffe speaking about Person D during Maths lessons, but could not recall Mr Sutcliffe describing Person D as someone who had stopped being gay as it was wrong.

Given the specificity of Pupil A's recollection as to the context in which this comment was made, the panel found that on balance, it was more likely than not that Mr Sutcliffe had made a comment during a Maths lesson that Person D through God had stopped being gay as it was wrong.

The panel found this allegation proven.

**2. whilst employed as a Maths teacher at St Aloysius College, Islington, between September 2018 and November 2019, you engaged in inappropriate and/or unprofessional behaviour, by:**

**a) On or around 18 October 2019, during the school day, showing pupils a video(s) about masculinity, which contained inappropriate comments, including the following comments, or comments to the effect of:**

**i. The growing problem in today's society is that men are not masculine enough;**

**ii. When men deny their masculinity, they run away from responsibilities leaving destruction and devastation in their wake;**

**iii. Children who grow up without a father are generally more depressed than their peers who have a mother and father. They are at a far greater risk of incarceration, teen pregnancy, and poverty. 71% of High School dropouts are fatherless;**

**iv. Woman want real men...I don't know any woman of any age who is attracted to a passive man who looks to her to be his provider, protector, and leader;**

**v. Passive men don't defend, protect, or provide. Passive men do not lead;**

The panel noted that the above statements were made in a video uploaded by 'PragerU', save for 2(a)(ii). The panel reviewed the video and noted that the video contained the comment 'when men deny their masculinity, they run away from responsibilities leaving destruction and *despair* in their wake' as opposed to 'destruction and devastation'.

The panel heard from Mr Sutcliffe who gave evidence that he had not shown the video during the school day, and that he would only show videos from The Bible Project which he deemed to be in keeping with St Aloysius College's ethos as a Roman Catholic school. The panel noted that the videos from The Bible Project did not form part of the allegations and therefore they were not required to consider these.

The panel heard from Pupil F, a pupil in Mr Sutcliffe's year 9 form group and Maths class at St Aloysius College. The panel learned that pupils at St Aloysius College had form period for the first 40 minutes of each school day. Pupil F gave evidence that the 'PragerU' video was shown by Mr Sutcliffe during a form period. The panel found Pupil F to be measured, clear and dispassionate in his evidence. The panel further noted that Pupil F had no reason to fabricate the evidence.

The panel therefore found that, on balance, it was more likely than not that Mr Sutcliffe had shown the video uploaded by 'PragerU' during form period.

The panel then considered whether the video was inappropriate and/or unprofessional.

The panel received extensive submissions from both parties in relation to the role of free speech in society. The panel was presented with a wealth of case law dealing with issues of freedom of expression under Article 10 of the European Convention on Human Rights (including *Miller v College of Policing and another [2021] EWCA1926* and *Ngole v University of Sheffield [2019] EWCA Civ 1127*).

The panel noted the contents of the judgements; however, both related to different factual scenarios to the matters relating to Mr Sutcliffe. This panel had a distinct and fact-specific task, namely to assess the conduct of Mr Sutcliffe in his role as a teacher.

A central principle of the judgements, and one to which this panel has had regard, is that the right to freedom of expression is a qualified right. In terms, it can be qualified and restricted provided that this restriction is in accordance with the published law and principles, and pursues a legitimate aim to protect health, morals and public order (by way of example) or to protect the rights of other people. In *Ngole*, it was stated that the right to freedom of expression is not an unqualified right: professional bodies and organisations are entitled to place reasonable and proportionate restrictions on those subject to their professional codes. As such, just because a belief is said to be a religious belief, it does not give a person subject to professional regulation the right to express such beliefs in any way he or she sees fit.

The panel proceeded to consider Mr Sutcliffe's case in accordance with these principles. Broad representations were made on behalf of Mr Sutcliffe that this case related to issues of freedom of expression and speech in the abstract. It was not the function of this panel to assess such broader issues. The panel has no role in determining the veracity, reasonableness or otherwise of Mr Sutcliffe's beliefs.

This panel was concerned with the Teachers' Standards and the distinct professional considerations which apply to the specific conduct alleged, and its findings were similarly limited.

The panel noted that some of the views expressed in the video were partisan and controversial. The panel considered Pupil F's evidence that no one in the class was given an opportunity to discuss the video's contents or present any alternative arguments to

those proffered in the 'PragerU' video in the form period. The panel drew upon their own professional experience, and noted that teachers have a role in ensuring pupils are exposed to balanced views on tendentious topics. The panel therefore concluded that Mr Sutcliffe acted inappropriately in showing the 'PragerU' video to his form without presenting a balanced view and/or giving the pupils the opportunity to discuss the alternative views.

The panel further considered that there may have been pupils in Mr Sutcliffe's form class whose personal circumstances were not reflective of those portrayed as idealistic in the 'PragerU' video. The panel found that Mr Sutcliffe had failed to consider the potential adverse effect on these pupils, and that in doing so, he had acted unprofessionally. The panel therefore found that sharing the 'PragerU' video in form period was both inappropriate and unprofessional.

The panel found this allegation proven.

### **3. Your conduct as may be found proven at allegations 1 and/or 2 demonstrated a failure to treat pupils with dignity and/or respect and/or a failure to safeguard pupils' well-being.**

#### **Allegation 1(a)(i)**

Mr Sutcliffe contended that biological sex is immutable and cannot be changed, that Pupil A did not have the protected characteristic of gender reassignment, and that there is no legal requirement to use preferred pronouns. However, it was not the function of the panel to determine these three matters. The questions for the panel was not whether Mr Sutcliffe breached the Equality Act 2010, or whether Mr Sutcliffe harassed or discriminated against Pupil A. The question for the panel was whether it was more likely than not when performing his duties as a teacher he failed to treat Pupil A with dignity and respect, and failed to safeguard Pupil A's well-being.

The panel was mindful of Mr Sutcliffe's strong and sincere religious beliefs rooted in his deep faith which led him to have a personal conviction against using preferred pronouns. Mr Sutcliffe has a right to hold this belief. It is the manner in which Mr Sutcliffe chose to manifest this belief to which objection could justifiably be taken if he failed to have regard to Pupil A's dignity, to treat him with respect, or to safeguard Pupil A's well-being.

The panel had regard to a signed statement written by Person C, which stated that [Redacted], Pupil A had been moved from Pupil A's Person C class to Mr Sutcliffe's Maths class. Person C went on to state that she had a conversation with Mr Sutcliffe prior to Pupil A joining Mr Sutcliffe's class, during which she explained that Pupil A was transgender and should be referred to using male pronouns. The panel noted that although this statement was hearsay evidence, under cross examination, Mr Sutcliffe accepted that this conversation had taken place and that he was aware that Pupil A was transgender.



The panel found that Mr Sutcliffe referred to Pupil A using female pronouns and did so publicly. The panel heard evidence from Pupil A [Redacted]. The panel heard evidence from Pupil A and Person A that Pupil A had joined The Cherwell School as a male and was referred to by other pupils and teachers using male pronouns. The panel heard from Person A that Pupil A had only been known as male at the school. Person A gave evidence that had she not already been aware, she would have been surprised to learn that Pupil A [Redacted]. Whilst on 'This Morning', although Mr Sutcliffe did not refer to Pupil A by name, Mr Sutcliffe described Pupil A [Redacted]. Mr Sutcliffe used the female pronoun during the interview when referring to Pupil A. Person A gave oral evidence that the incidents [Redacted]. The panel heard from Pupil A that he felt that Mr Sutcliffe had failed to treat him with dignity and respect. [Redacted]. The panel noted that this was corroborated by Pupil A's mother in the email to the school dated 2 November 2017. [Redacted]. The panel noted that this was hearsay evidence, but that it was not the sole or decisive evidence on this matter.

The panel therefore concluded that on balance, by failing to use Pupil A's preferred pronouns, Mr Sutcliffe had failed to treat Pupil A with dignity and respect and failed to safeguard Pupil A's well-being.

#### **Allegation 1(a)(ii)**

The panel found that Mr Sutcliffe was aware that 'This Morning' is a national television programme and that it would be highly likely that members of The Cherwell School community, including Pupil A, would watch his interview at some stage. The panel found that Mr Sutcliffe described Pupil A's circumstances in such a way that it would have been apparent to Pupil A and other pupils at The Cherwell School that Mr Sutcliffe was referring to Pupil A. The panel noted that this had had an adverse impact on Pupil A [Redacted]. The panel found that Mr Sutcliffe failed to consider the ramifications for Pupil A of his appearance and utterances on a national television programme.

In relation to 1(a)(ii), the panel therefore found that Mr Sutcliffe did not treat Pupil A with dignity and respect and failed to safeguard Pupil A's well-being by referring to Pupil A using the female pronoun on 'This Morning'.

#### **Allegation 1(a)(iii)**

In relation to 1(a)(iii), the panel found that Mr Sutcliffe had referred to Pupil A using the female pronoun in correspondence with the school. The panel felt it was unlikely that Pupil A would become aware of this email. The panel found that this was not a failure to treat Pupil A with dignity and respect. The panel also noted that the correspondence was private and addressed to the school and therefore that Mr Sutcliffe had not failed to safeguard Pupil A's well-being.

#### **Allegation 1(b)(i)**

The panel found that in relation to allegation 1(b)(i), Mr Sutcliffe was asked for his view on gay marriage by Pupil A and Pupil B. The panel found that in answering Pupil A and Pupil B, Mr Sutcliffe expressed his view on gay marriage and homosexuality.

In relation to 1(b)(i) the panel found that in answering a direct question where he gave his view about gay marriage, Mr Sutcliffe did not demonstrate a failure to treat pupils with dignity or respect, nor did he demonstrate a failure to safeguard pupils' well-being.

### **Allegation 1(b)(ii)**

In relation to 1(b)(ii), the panel noted that unlike allegation 1(b)(i), the comment made by Mr Sutcliffe was unprompted. In making the statement that Person D had stopped being gay as it was wrong, Mr Sutcliffe failed to consider the potential impact of this statement on pupils, particularly those who may be from the LGBTQ+ community. The panel heard from Pupil A that he felt that this comment was directed at both him and Pupil B, and that the statement was an implication that they were wrong and needed to be 'cured'. This was supported by the evidence of Pupil B who identified as being from the LGBTQ+ community, that she felt that by saying being gay was wrong, Mr Sutcliffe was saying that her existence was inherently wrong. The panel found that Mr Sutcliffe had failed to deal with this matter professionally and in a balanced way.

The panel therefore found that on the balance of probabilities, Mr Sutcliffe failed to treat pupils with dignity and respect and safeguard pupils' well-being.

### **Allegation 2(a)**

In relation to 2(a), the panel found that Mr Sutcliffe had failed to provide a balanced view and an opportunity for the pupils to discuss any alternative views when showing the 'PragerU' video entitled 'Make Men Masculine Again' in form period. The panel found that this failure to provide context or debate risked the video being perceived by the pupils as the sole position on the definition of masculinity. The panel found that Mr Sutcliffe failed to take into account the potential negative impact on pupils who did not agree with or conform to the views of masculinity portrayed in the video. The panel found that Mr Sutcliffe acted insensitively by failing to take into account the potential ramifications for pupils whose personal circumstances were not reflective of those portrayed as idealistic in the 'PragerU' video. The panel found that this was a failure to treat pupils with dignity and respect and a failure to safeguard pupils well-being.

As a result, the panel found allegation 3 proven.

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

**2. whilst employed as a Maths teacher at St Aloysius College, Islington, between September 2018 and November 2019, you engaged in inappropriate and/or unprofessional behaviour, by:**

**b) In or around October – November 2019, encouraging or directing pupils to watch your YouTube channel/profile and/or uploading one or more videos to your YouTube account/profile, which contained inappropriate content, including the following comments, or comments to the effect of:**

**i. “Mohammed is a false prophet”;**

**ii. “If we look at Islam in the modern generation, we see that many people go out killing in the name of Allah”;**

**iii. “I would suggest that Muslims have a false understanding of God because they’ve been led by a false prophet”;**

**iv. “the Fruit of Islam is not peace, it’s division”;**

**v. “it’s the beginning of a great evil in this land when we’re not able to speak against Islam”;**

**vi. “Joseph Smith is a false prophet... these are false and destructive heresies”.**

The panel found that Mr Sutcliffe uploaded videos to his YouTube account. The panel had sight of six videos agreed by the TRA and Mr Sutcliffe to be the relevant videos:

- What does the Bible say about false prophets? Episode 2, dated 20 October 2019
- What does the Bible say about LGBT? Episode 9, dated 8 December 2019
- Muhammed is a false prophet | Season 5 Episode 2, dated 6 September 2020
- Muslim man threatens to knock me the f\*\*\* out, dated 27 August 2020
- Police telling preacher not to talk about homosexuality, dated 3 March 2020
- LGBT mafia member tries to intimidate preacher, dated 4 February 2020

The panel noted that of these six videos, only the video entitled ‘What does the Bible say about false prophets? Episode 2’ was uploaded whilst Mr Sutcliffe was employed at St Aloysius College. The panel considered the wording of the allegation and found that only this video had the potential to fall within the allegation given that it was the only video uploaded whilst Mr Sutcliffe was employed as a Maths teacher at St Aloysius College between September 2018 and November 2019.

The panel viewed the video and reviewed the transcript of this video. The panel found that the video ‘What does the Bible say about false prophets’ contained the statements made at allegation 2(b)(i) to (vi).

The panel heard from Pupil F that it was known at the College that Mr Sutcliffe had a YouTube account and that he posted videos on his YouTube account. Pupil F gave evidence that he did recall Mr Sutcliffe saying ‘wait until the next one comes out’, but that Mr Sutcliffe did not show his videos to pupils, or encourage or direct pupils to watch his

YouTube account. The panel did not hear evidence on the context around the statement 'wait until the next one comes out' and therefore on balance, was unable to determine whether the statement was a statement of encouragement. The panel found that, on balance, Mr Sutcliffe did not encourage or direct pupils to watch his YouTube channel.

With regard to whether the video uploaded by Mr Sutcliffe contained inappropriate content, although Mr Sutcliffe was aware that pupils would be able to access his channel, the panel noted the fact that this video was made and uploaded in Mr Sutcliffe's own time and contained no reference to the College, pupils or the fact that he was a teacher. This is to be distinguished from the situation in allegation 2(a) where a video was shown to pupils during the school day.

The panel also noted Mr Sutcliffe's Article 10 rights to freedom of expression. The panel found that the video could only be considered inappropriate in this context if a restriction of the freedom of expression was lawful, necessary, proportionate and justified in accordance with Article 10. In this case, the panel did not consider that the video incited hatred, violence or discrimination. Instead, the panel found that Mr Sutcliffe was exercising his right to freedom of expression when preaching about his beliefs. The panel therefore found this allegation not 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 Sutcliffe, in relation to the facts found proved, involved breaches of the Teachers' Standards.

The panel considered that Mr Sutcliffe was in breach of the following Teachers' 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...
  - having regard for the need to safeguard pupils' wellbeing, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The panel found that Mr Sutcliffe was aware the Pupil A was a transgender pupil with preferred pronouns 'he/him'. Despite this, the panel noted that Mr Sutcliffe had referred to Pupil A as female on one or more occasions in the classroom and on 'This Morning'. The panel noted that by failing to use Pupil A's preferred pronoun, Mr Sutcliffe failed to treat Pupil A with dignity and to build a relationship with Pupil A rooted in mutual respect.

With respect to Mr Sutcliffe's comment about Person D, the panel noted that Mr Sutcliffe had not considered the potential impact of such comments on pupils. The panel found that Mr Sutcliffe had failed to treat his pupils with dignity or to build relationships rooted in mutual respect.

As regards the showing of the 'PragerU' video, the panel found that by not providing his pupils with an opportunity to discuss any alternative views, Mr Sutcliffe failed to treat his pupils with dignity or to build relationships rooted in mutual respect.

The panel noted the relevant edition of Keeping Children Safe In Education, which stated: '...all professionals should make sure their approach is child-centred. This means that they should consider, at all times, what is in the best interests of the child.'

The panel concluded that as soon as Mr Sutcliffe realised that adhering to his personal conviction may conflict with Pupil A's wellbeing, it was his professional responsibility to raise the matter with The Cherwell School at the earliest opportunity in order to agree an appropriate approach to safeguard Pupil A's well-being.

The panel had regard to a letter Mr Sutcliffe received from Person B dated 12 May 2017. The panel noted that this letter stated 'I shared with you my concern that you have been finding it difficult to separate your evangelical Christian faith from your professional responsibilities as a teacher at this school', going on to state 'I would encourage you to talk directly to me if at any time you feel that you are finding it hard to work within this ethos of the school'.

The panel noted that Mr Sutcliffe could have balanced his personal conviction with the interests of Pupil A in order to safeguard Pupil A by always referring to Pupil A by name. The panel noted that Mr Sutcliffe had made some attempt to do so, but had nonetheless deliberately referred to Pupil A using female pronouns on more than one occasion.

By not seeking a satisfactory solution to his dilemma, but choosing instead to teach Pupil A and failed to use Pupil A's preferred pronouns, Mr Sutcliffe failed to consider what was in the best interests of Pupil A, and therefore failed to have regard for the need to safeguard Pupil A's well-being.

The panel found that in referring to Pupil A with the female pronoun within class and later on national television, Mr Sutcliffe identified to other pupils that Pupil A was transgender,

where this was not previously common knowledge. The panel found that whilst on 'This Morning', Mr Sutcliffe described Pupil A's circumstances in such a way that it would have been apparent to Pupil A and other pupils at The Cherwell School that Mr Sutcliffe was referring to Pupil A. The panel found that Mr Sutcliffe failed to have regard for the need to safeguard Pupil A's well-being.

The panel found that by making the comment about Person D, Mr Sutcliffe failed to consider the potential impact of this statement on pupils, particularly those who may be from the LGBTQ+ community. The panel found that Mr Sutcliffe failed to have regard for the need to safeguard his pupils' well-being.

By showing the 'PragerU' video and failing to provide a balanced view on the content therein, the panel found that Mr Sutcliffe failed to take into account the potential adverse effect on those pupils who did not conform to the model of masculinity promoted or whose personal circumstances did not reflect those portrayed as idealistic in the video. The panel concluded that Mr Sutcliffe failed to have regard for the need to safeguard his pupils' well-being.

The panel found that Mr Sutcliffe had no tolerance for Pupil A's gender preference, by deliberately using the female pronoun when referring to Pupil A, both in the classroom and on national television. In doing so, Mr Sutcliffe failed to show tolerance of and respect for the rights of others. The panel was mindful that Mr Sutcliffe could have showed a degree of tolerance by using Pupil A's first name, as opposed to deliberately using the female pronoun.

The panel considered whether Mr Sutcliffe's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found "intolerance.." was relevant. The advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel found that the ethos of The Cherwell School was explicitly diverse and inclusive. The panel had regard to The Cherwell School's code of conduct which stated 'it is imperative that all of the staff of the trust behave, at all times, in the best interests of the pupil, staff colleagues and all other members of our community. It is incumbent on them to behave in a professional manner, seeking advice from Person B and or senior colleagues if there is any doubt as to the appropriate course of action.'

The panel also heard from Person A, who highlighted that the school's practice was to use preferred pronouns. The panel noted that this was demonstrated by the conversation Pupil A's Person C held with Mr Sutcliffe, where she identified that Pupil A's preferred pronouns were 'he/him' and that Mr Sutcliffe should refer to Pupil A using the pronouns 'he/him'.

The panel also noted that in addition to the school's practice, The Cherwell school held a staff meeting on 12 October 2017 whereby an update was provided on transgender matters. The panel noted that Mr Sutcliffe accepted that he was in attendance for this training. The panel found that this training included a reminder about the appropriate use of pronouns and names and advice to use gender neutral pronouns or a pupil's name where teachers did not know a pupil's gender.

The panel accepted that the school's policy was to refer to pupils by their chosen pronouns and found that, on balance, Mr Sutcliffe was aware that the school's policy was to use Pupil A's preferred pronoun.

The panel found that Mr Sutcliffe had a professional responsibility to report any concerns he had about being expected to use preferred pronouns to the school. By failing to seek advice as to the appropriate course of action at the point Pupil A was moved to his Maths class, the panel found that Mr Sutcliffe did not have proper and professional regard for the ethos, policies and practices of the school.

The panel had regard to the Teachers' Standards and Keeping Children Safe in Education. The panel found that Mr Sutcliffe had not acted within the statutory frameworks setting out a teacher's professional duties and responsibilities.

The panel noted that allegation 1(a)(ii) took place outside the education setting. The panel found that Mr Sutcliffe was aware that 'This Morning' is a national television programme and that it would be highly likely that pupils of The Cherwell School, including Pupil A would watch his interview. The panel found that Mr Sutcliffe described Pupil A's circumstances in such a way that it would enable pupils at The Cherwell School to identify Pupil A. The panel has heard evidence of the effect of Mr Sutcliffe's conduct on Pupil A. It therefore affected the way that Mr Sutcliffe fulfilled his teaching role and led to Pupil A being exposed to the behaviour in a harmful way.

The panel was satisfied that the conduct of Mr Sutcliffe fell significantly short of the standard of behaviour expected of a teacher. Accordingly, the panel was satisfied that Mr Sutcliffe was guilty of unacceptable professional conduct.

The panel then considered whether Mr Sutcliffe's conduct constituted conduct that may bring the profession into disrepute. The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 panel noted that allegation 1(a)(ii) took place outside the education setting. 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.

In considering the issue of disrepute, the panel also considered whether Mr Sutcliffe's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found "intolerance.." was relevant. The advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

For the reasons already given, the panel found that Mr Sutcliffe's actions constituted conduct that may bring the profession into disrepute.

Accordingly, the panel was satisfied that Mr Sutcliffe was guilty of 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 would be appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Sutcliffe and whether a prohibition order would be necessary and proportionate. 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, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Sutcliffe, which involved findings of unacceptable professional conduct and conduct that brings the profession into disrepute, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of the panel of breaches of the Teachers' Standards including: failing to treat pupils with dignity and build relationships rooted in mutual respect, failing to have regard for the need to safeguard pupils' wellbeing and showing tolerance of and respect for the rights of others.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Sutcliffe 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 Sutcliffe was outside that which could reasonably be tolerated.

Whilst there was evidence that Mr Sutcliffe has ability as an educator, the panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Sutcliffe in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;

- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE)

- violation of the rights of pupils; and

- actions or behaviours that undermine fundamental British values of mutual respect and tolerance of those with different beliefs.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest, the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by Mr Sutcliffe.

The panel found that Mr Sutcliffe had a previously good record.

The panel found that there was evidence that Mr Sutcliffe's actions were deliberate. The panel noted that Mr Sutcliffe was a relatively new teacher with limited experience, and that although his actions were deliberate, Mr Sutcliffe did not maliciously intend to cause distress to pupils. The panel found that Mr Sutcliffe failed to distinguish between his role as a teacher with that of a preacher.

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

The panel found that Mr Sutcliffe had demonstrated exceptionally high standards in his personal life, in the light of his significant contribution to his church.

The panel heard from two character witnesses and had sight of three lesson observations, and one professional reference in the hearing bundle. The panel found that although there was some evidence that Mr Sutcliffe was a competent classroom teacher and a good one-to-one tutor, the panel did not find that Mr Sutcliffe had contributed significantly to the education sector.

The panel found Mr Sutcliffe had some level of insight and remorse as regards the effect of his actions on pupils. However, this was limited and fell significantly short of the level expected by the panel.

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 Sutcliffe of prohibition.

The panel decided that the public interest considerations outweighed the interests of Mr Sutcliffe. The panel had regard to the three aims of a prohibition order, namely: to safeguard pupils; to maintain public confidence in the profession; and uphold proper standards of conduct. Of the three aims, it was the issue of safeguarding that was the significant factor for the panel in forming the opinion that a less intrusive measure would not be appropriate. The panel found that Mr Sutcliffe lacked the level of insight and remorse sufficient for the panel to be satisfied that if faced with a similar set of circumstances, there would be no risk of repetition. 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 two years.

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. The panel considered this list and did not feel that any of these applied in these circumstances.

The panel noted that Mr Sutcliffe had a previously good record. The panel had regard to the positive comments about Mr Sutcliffe from the two character witnesses, the three lesson observations, and the professional reference. The panel noted Mr Sutcliffe was passionate about teaching Maths. The panel considered that a review period of two years may afford Mr Sutcliffe the opportunity to reflect on the panel's findings and develop greater insight and remorse for his actions. The panel noted that a period of two years may also give Mr Sutcliffe the opportunity to consider the distinct differences between the role and responsibilities of the teacher and the role and responsibilities of the preacher.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period after two years.

## **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. It has also found some allegations not proven. In particular, the panel has also found that some of the allegations proven on fact at 1a(iii) and 1b(i), do not also amount to a failure to treat pupils with dignity and respect or to fail to safeguard pupil well-being. I have therefore put all of those matters entirely from my mind.

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

In particular, the panel has found that Mr Sutcliffe 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...
  - having regard for the need to safeguard pupils' wellbeing, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The panel found, “that Mr Sutcliffe was aware the Pupil A was a transgender pupil with preferred pronouns ‘he/him’. Despite this, the panel noted that Mr Sutcliffe had referred to Pupil A as female on one or more occasions in the classroom and on ‘This Morning’. The panel noted that by failing to use Pupil A’s preferred pronoun, Mr Sutcliffe failed to treat Pupil A with dignity and to build a relationship with Pupil A rooted in mutual respect.”

The panel went on to set out that, “With respect to Mr Sutcliffe’s comment about Person D, the panel noted that Mr Sutcliffe had not considered the potential impact of such comments on pupils. The panel found that Mr Sutcliffe had failed to treat his pupils with dignity or to build relationships rooted in mutual respect.”

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 or conduct likely to 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 Sutcliffe, 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 observed, for example in one instance that, “by making the comment about Person D, Mr Sutcliffe failed to consider the potential impact of this statement on pupils, particularly those who may be from the LGBTQ+ community. The panel found that Mr Sutcliffe failed to have regard for the need to safeguard his pupils’ well-being.” 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, “The panel found Mr Sutcliffe had some level of insight and remorse as regards the effect of his actions on pupils. However, this was limited and fell significantly short of the level expected by the panel.” The panel also say, “The panel found that Mr Sutcliffe lacked the level of insight and remorse sufficient for the panel to be satisfied that if faced with a similar set of circumstances, there would be no risk of repetition.” In my judgement, the lack of full insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future well-being 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 that it, “took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 panel also, "noted that allegation 1(a)(ii) took place outside the education setting. 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."

Finally, the panel state that, "In considering the issue of disrepute, the panel also considered whether Mr Sutcliffe's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found "intolerance.." was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute."

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 or conduct likely to bring the profession into disrepute, 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 Sutcliffe himself. The panel comment "The panel noted that Mr Sutcliffe had a previously good record. The panel had regard to the positive comments about Mr Sutcliffe from the two character witnesses, the three lesson observations, and the professional reference. The panel noted Mr Sutcliffe was passionate about teaching Maths."

A prohibition order would prevent Mr Sutcliffe 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 decided that the public interest considerations outweighed the interests of Mr Sutcliffe. The panel had regard to the three aims of a prohibition order, namely: to safeguard pupils; to maintain public confidence in the profession; and uphold proper standards of conduct. Of the three aims, it was the issue of safeguarding that was the significant factor for the panel in forming the opinion that a less intrusive measure would not be appropriate."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Sutcliffe 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 2 year review period.

I have considered the panel's comments "The panel considered that a review period of two years may afford Mr Sutcliffe the opportunity to reflect on the panel's findings and develop greater insight and remorse for his actions. The panel noted that a period of two years may also give Mr Sutcliffe the opportunity to consider the distinct differences between the role and responsibilities of the teacher and the role and responsibilities of the preacher."

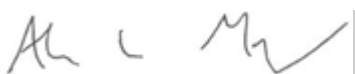
I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, I believe that it is.

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

**This means that Mr Joshua Sutcliffe 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 15 May 2025, 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 Joshua Sutcliffe remains prohibited from teaching indefinitely.

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

Mr Joshua Sutcliffe 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: 10 May 2023**

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