



National College for
Teaching & Leadership

Mrs Clare Griffiths: Professional conduct panel outcome

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

September 2016

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

Teacher: Mrs Clare Griffiths

Teacher ref number: 0852438

Teacher date of birth: 8 April 1978

NCTL case reference: 14245

Date of determination: 6 September 2016

Former employer: Harper Green Secondary School, Bolton

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 5 September 2016 – 6 September 2016 at the Ramada Hotel, The Butts, Coventry CV1 3GG to consider the case of Mrs Clare Griffiths.

The panel members were Mr Mike Carter (teacher panellist – in the chair), Ms Nicole Jackson (lay panellist) and Ms Marjorie Harris (lay panellist).

The legal adviser to the panel was Ms Victoria Callicott of Eversheds LLP.

The presenting officer for the National College was Ms Samantha Paxman of Browne Jacobson.

Mrs Griffiths was not present and was not represented at the hearing.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 4 April 2016.

It was alleged that Mrs Clare Griffiths was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Harper Green Secondary School she:

- 1. Failed to maintain professional boundaries towards Pupil A, a vulnerable student, in that:**
 - a. whilst she was at the school in that Mrs Griffiths e-mailed Pupil A excessively and informally including late at night and during weekends;**
 - b. within the first 4 months after she had left the school Mrs Griffiths:**
 - i. continued to contact Pupil A on an informal basis by text and e-mail;**
 - ii. took Pupil A to Alton Towers in the summer of 2014;**
 - iii. allowed Pupil A to stay overnight at your house on at least one occasion**
- 2. Pupils A and C were misled to believe that an official school trip had been arranged for Mrs Griffiths to take them to Alton Towers in the summer holidays of 2014;**
- 3. Her conduct in regard to allegation 2 was dishonest in that this was communicated to the parents of Pupils A and C on a school letter-headed paper inviting them to consent to their participation without having followed the necessary school procedures or obtained authority to arrange such a trip;**
- 4. Failed to follow safeguarding and data protection guidance in that she:**
 - a. Provided confidential information about other students to Pupil A;**
 - b. Failed to follow the appropriate steps to report safeguarding concerns in relation to Pupil A.**

In the Notice of Proceedings form dated 28 April 2016, Mrs Griffiths denied the allegations in the Notice of Proceedings dated 4 April 2016. However, an agreed statement of facts, signed by Mrs Griffiths on 31 August 2016 and signed by the presenting officer on 1 September 2016, was submitted to the panel at the hearing. The agreed statement of facts set out that Mrs Griffiths accepted the facts relating to

allegation 1. Mrs Griffiths confirmed the facts relating to allegation 2, 3 and 4 were disputed and accordingly, this case is proceeding as a disputed case.

C. Preliminary applications

Allowing a witness to attend the public parts of the hearing as an observer

The panel noted that two observers were present at the hearing, one of whom was Pupil A's mother. The legal adviser noted that Pupil A's mother had provided Mrs Griffiths with a witness statement in support of her position (p.253 to p.285). Accordingly, the legal adviser directed the panel to paragraph 4.66 of the Teacher Misconduct – Disciplinary Procedures for the teaching profession (the "Procedures") which states that witnesses may not be an observer at the hearing until they have completed giving evidence and been formally released by the chair, unless decided otherwise by the panel.

The legal adviser commented that there was no proposal that Pupil A's mother would give oral evidence at the hearing by either Mrs Griffiths or the presenting officer. The presenting officer submitted that she was satisfied with Pupil A's mother attending the hearing provided that Pupil A's mother was aware that she would not be able to provide oral evidence or otherwise comment on any evidence adduced if she did attend the hearing as an observer. Pupil A's mother confirmed this to the panel and that she would attend the hearing as a silent observer. The panel is satisfied that Pupil A's mother could attend the hearing as an observer in accordance with its discretion under paragraph 4.66 of the Procedures.

Proceeding in the absence

The presenting officer then made an application for the hearing to proceed in the absence of Ms Griffiths.

The panel is satisfied that the National College has complied with the service requirements of regulations paragraph 19(a) to (c) of the Teacher's Disciplinary (England) Regulations 2012 (the "Regulations").

The panel is also satisfied that the Notice of Proceedings dated 4 April 2016 complies with paragraphs 4.11 and 4.12 of the Procedures.

The panel has determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of Mrs Griffiths. The panel understands that its discretion to commence a hearing in the absence of Mrs Griffiths has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one.

In making its decision, the panel notes that Mrs Griffiths may waive her right to participate in the hearing. The panel has taken account of the various factors drawn to its attention

by the legal adviser from the case of R v Jones [2003] 1 AC1. The panel considers that service of the Notice of Proceedings dated 4 April 2016 has been effective as it provided more than 8 weeks' notice of the hearing date. The panel also notes that Mrs Griffiths had returned the Notice of Proceedings form which was signed and dated on 28 April 2016 and that Mrs Griffiths had written letters to the panel regarding the proceedings (p.253 to 257). The presenting officer provided the panel with a letter dated 24 August 2016 (p.325 to p.326) to Mrs Griffiths to request whether Mrs Griffiths was happy for the hearing to proceed in her absence or whether she would like the hearing to be adjourned. Mrs Griffiths responded on 31 August 2016 (p.328 to p.330) to confirm she would like the hearing to proceed and would not like it to be adjourned. The panel was therefore satisfied that Mrs Griffiths is actually aware of the proceedings.

The legal adviser advised the panel that there are a large number of cases that have proceeded without a professional being present. The legal adviser referred to the recent case of GMC v Adeogba 2016 EWCA Civ 162 in which the Court of Appeal indicated that after service has been established within the relevant rules (in this case the Procedures) whether to proceed in the absence of a professional must be taken by reference to the principles developed by criminal law in relation to trials taking place in absence of a defendant. The legal advisor drew the panel's attention to the various factors relating to this outlined in the Jones case.

The panel was mindful that the primary purpose of regulatory proceedings such as this, is the protection of the public and there is a need for hearings to proceed expeditiously, even in a teacher's absence, to serve the public interest and the profession.

The panel has had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place without Mrs Griffiths present. However, there is no indication in the written documents that an adjournment might result in Mrs Griffiths attending the hearing particularly given her letter to the panel on 8 August 2016 (p.253) in which Mrs Griffiths confirms that she will not attend the hearing as she has found the whole process extremely harrowing and has suffered from anxiety and panic attacks as a result of the investigation (although the panel notes that no medical evidence was adduced to attest to this point). Further, Mrs Griffiths comments (p.328) in her letter to the presenting officer on 31 August 2016 that she did not know whether her stress/panic attacks were short-term but that she was ill in any event.

The panel notes however that the presenting officer provided Mrs Griffiths with an opportunity to request to attend the hearing by utilising special measures (p.326) but Mrs Griffiths did not identify any special measure that would assist her in attending the hearing (p.328). Mrs Griffiths had also indicated that she would not be legally represented due to financial constraints (p.253) but that she did wish to have legal representation (p.328).

In light of all the available information, the panel therefore considers that Mrs Griffiths has waived her right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The panel has had regard to the extent of the disadvantage to Mrs Griffiths in not being able to give her account of events, having regard to the nature of the evidence against her. The panel has the benefit of information in the bundle relating to the facts that formed the basis of the allegations. The panel also has the benefit of written representations and witness statements made by Mrs Griffiths and is therefore able to ascertain the lines of defence. The panel also has Mrs Griffiths' evidence addressing mitigation and is able to take this into account at the relevant stage.

The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel has had regard to the seriousness of this case, and the potential consequences for Mrs Griffiths and has accepted that fairness to the teacher is of prime importance. However, it considers that in light of the teacher's waiver of her right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witness; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

Abuse of process

In light of the panel's decision to proceed in the absence of Mrs Griffiths, the panel was conscious that Mrs Griffiths had indicated in her statements (p.251 and p.256) that the preparation of her defence was hindered by the delay between her suspension from the school and her being notified of allegations 2 and 3 against her. This matter has been carefully considered by the panel.

Although not framed and labelled specifically as such, these points made by Mrs Griffiths raised questions as to whether these proceedings are an abuse of process. In Mrs Griffiths' absence, given her lack of legal representation and in fairness to Mrs Griffiths, the panel considered it important to carefully consider the points she has made.

Essentially the arguments made by Mrs Griffiths in her written submissions appeared to be that she did not know the content of the allegations against her until January 2016 and that this has hindered her defence and preparation (p. 251). Mrs Griffiths confirms this point relates to allegations 2 and 3 (p. 256). The basis of her arguments appear to be that she was not able to access documents which she considers would assist her case at the time she was suspended. The presenting officer in her submissions however confirmed that the School's position is that these documents do not exist.

The panel received advice that an abuse of process has been defined as “something so unfair and wrong that the court should not allow a prosecutor to proceed with what is in all other respects a regular proceeding” and that where proceedings meet the definition of an abuse of process, those proceedings have to be permanently stayed. Secondly, the panel understood that, the burden of establishing an abuse of process is on the teacher claiming it and the standard is the balance of probabilities, although there was some judicial authority for the proposition that panels are in fact exercising a judicial assessment and judgment in considering whether there is an abuse of process.

The panel considered whether a fair hearing would be possible and/ or whether for some other compelling reason it would be unfair to continue these proceedings.

The panel considered that there was no unjustifiable delay between the allegations being notified to Mrs Griffiths. As submitted by the presenting officer, the panel noted that the NCTL did not receive the referral of Mrs Griffiths’ case until mid-2015 and that Mrs Griffiths became aware of the basis of the allegations in or around January 2016. The panel also noted that the fact that Mrs Griffiths had moved address was unfortunate but that the NCTL had taken steps to seek to trace her new address in order to try to locate her. In any event, Mrs Griffiths became aware of the allegations in or around January 2016 as she confirms on p.256. The panel considers this to be a reasonable period of time for her to take legal advice and prepare for the current proceedings.

The panel was also conscious that during the course of the hearing, it has enough written information in the bundle to challenge the presenting officer’s evidence particularly in respect of allegations 2 and 3 and to ensure that the presenting officer satisfies the burden of proof. The panel also does not consider that the delay would have an impact on the memory of the witness giving oral evidence and notes that Pupil A, B and C will only be providing written witness’ evidence.

For these reasons, the panel did not consider that in this case there was serious prejudice to Mrs Griffiths such that no fair hearing could be held. The panel considered that it was equipped to deal with the matters complained of within the hearing process. The panel therefore considered that a fair hearing was possible, and that it was fair to continue these proceedings.

Excluding the public

The panel has considered whether to exercise its discretion under paragraph 11 of the Teachers’ Disciplinary (England) Regulations 2012 (the “Regulations”) and paragraph 4.57 of the Procedures to exclude the public from all or part of the hearing. This follows an indication in the notice of referral form dated 28 April 2016 (p.13) in which Mrs Griffiths requests that the hearing be held in private to protect witnesses and the school. Mrs Griffiths repeats this request in her letter to the panel on 8 August 2016 (p.253).

The panel has determined not to exercise its discretion under paragraph 11(3)(b) of the Regulations and the second and third bullet points of paragraph 4.57 of the Procedures that the public should be excluded from the hearing.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. The panel notes that Mrs Griffiths wishes to protect witnesses in this case and that there are confidential matters relating to Pupil A's health which will need to be discussed as part of the case against Mrs Griffiths. The panel notes that there is little medical evidence in relation to Pupil A's health but considers that such evidence does constitute important contextual background to the allegations, as submitted by the presenting officer. The panel also notes, as submitted by the presenting officer if the case is to proceed in public, that there may be a need to anonymise the school name or anonymise the name of the former pupil who is giving evidence on behalf of Mrs Griffiths.

The panel has balanced the reasons why the teacher has requested that the public be excluded against the competing reasons for which a public hearing is required.

The panel notes that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing is preferable to a permanent exclusion of the public. The panel has therefore considered whether there are any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to the Pupil's A health. The panel considers that Pupil A will be protected by the fact that Pupil A's name is already anonymised and that matters relating to Pupil A's health can be dealt with in private session if relevant.

The panel notes that Mrs Griffiths has also requested the hearing to proceed in private to protect the school (p.13). Mrs Griffiths stated that she would provide further details but no further details have in fact been received. The presenting officer also confirmed that no further details had been received from Mrs Griffiths in respect of reasons why the school should be protected by anonymity.

The panel has considered its discretion under paragraph 4.60 of the Procedures as to whether the interest of justice requires the school name to be anonymised. The panel considered whether the school's name should be anonymised in order to protect the school, or any of the witnesses or third parties involved, as requested by Mrs Griffiths. The panel notes that the names of the pupils involved in this case have been anonymised to protect the witnesses. In absence of any other reason put forward by Mrs Griffiths, the panel does not therefore consider it necessary or in the interests of justice for the school's name to be anonymised.

The panel went on to consider whether the name of the former pupil giving evidence on behalf of Mrs Griffiths should be anonymised given its decision for the hearing to proceed

in public. In taking this decision, the panel has balanced the reasons for which it is proposed to conceal the name of the former pupil against the competing reasons for which a public hearing is generally required.

The panel considers that it is in the public interest for former pupil's name not to be anonymised. The former pupil has not requested that his name be anonymised and has given evidence on behalf of Mrs Griffiths voluntarily and that it is in the interests of justice for witnesses' names to be disclosed (unless there is a compelling reason not to do so) in order to prevent inaccurate or misleading statements in proceedings such as these.

Submission of additional documents

The panel then considered an application by the presenting officer to admit the following additional documents:

1. An email dated 31 August 2016 timed at 12.20pm from Individual A to the assistant deputy headteacher of the school (p.331);
2. An application form (undated) to Bolton Council for the approval of an educational visits to perform a flashmob at a specified location (p.340 to p.343);
3. A risk assessment dated 1 June 2014 in relation to the flashmob trip completed by Mrs Griffiths (p.344 to 347);
4. A statement of agreed facts dated 31 August 2016 submitted by Mrs Griffiths (p.334 to p.338);
5. A second witness statement dated 4 September 2016 from Mrs Griffiths with her response to the email from Individual A (as referred to at item 1 above) (p.348 to p.350); and
6. A witness statement dated 4 September 2016 from a former teacher of the School on behalf of Mrs Griffiths (p.352 to p. 353).

The panel considered whether to exercise its discretion under paragraph 4.18 to admit the documents previously mentioned which had not been submitted to the panel and the other party to the proceedings at least 4 weeks prior to the hearing. The panel noted that it may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel decided to admit the documents. The panel noted that documents (1) to (3) had only recently come into the possession of the presenting officer after making further enquiries after having only received Mrs Griffiths' substantive response to the allegations against her on 15 August 2016. The panel noted that the presenting officer had provided Mrs Griffiths with copies of documents (1) to (3) above on 31 August 2016. Mrs Griffiths had therefore been given opportunity to comment on those documents and the panel notes that she has in fact, provided further statements and evidence in respect of those documents, which are listed as documents number 4 to 6 above. The panel notes that in the interests of fairness, the presenting officer has requested that Mrs Griffiths' additional documents also be taken into consideration as well as the documents that the presenting

officer wishes to submit. Further, the panel considered the matters raised in all documents to be relevant to the allegations. The panel is able to take into account issues relating to the provenance of documentation and the inability to cross-examine the authors of such evidence when assessing the weight to be attached to the documents.

Further, when determining whether to admit the additional documents, the panel noted that there was no obvious objection by Mrs Griffiths to the presenting officer's email on 31 August 2016 to admit documents 1 to 3. Nor was there an objection by the presenting officer to admit the documents listed at 4 to 6 as submitted by Mrs Griffiths on 4 September 2016. On that basis, the panel considers it fair to admit the documents albeit the panel noted that it is not bound by the decisions of others and has to consider the matters before it independently.

Discontinuance of allegation 4(b)

The presenting officer applied to have the allegation 4(b) discontinued pursuant to paragraph 4.54 of the Procedures during the hearing.

The panel accepted the advice of the legal adviser that the panel should consider whether it is fair and appropriate to discontinue the allegation when exercising its discretion. The panel notes that no further guidance was given in the Procedures beyond this as to how it should exercise its discretion.

The panel decided to delete allegation 4(b). The panel notes that Mrs Griffiths is not present to respond to the application but that discontinuing the allegation did not pose any significant disadvantage to Mrs Griffiths. The panel notes that the presenting officer had already indicated to Mrs Griffiths in the letter dated 24 August 2016 that the NCTL would discontinue with the allegation (p.325) and therefore Mrs Griffiths had been given the opportunity to respond to this application. Mrs Griffiths responded on 31 August 2016 to confirm that she fully agreed with the discontinuance of the allegation (p.328). The panel therefore found it fair and reasonable in all the circumstances to discontinue with the allegation.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 4

Section 2: Notice of Proceedings and Response – pages 6 to 15

Section 3: NCTL witness statements – pages 17 to 33

Section 4: NCTL documents – pages 35 to 237

Section 5: Teacher documents – pages 239 to 323

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

In addition, the panel agreed to accept the following documents submitted by the presenting officer at the hearing (on behalf of the National College and behalf of Mrs Griffiths):

1. An email dated 31 August 2016 timed at 12.20pm from Individual A to the assistant deputy headteacher of the school (p.331);
2. An application form (undated) to Bolton Council for the approval of an educational visits to perform a flashmob at a specified location (p.340 to p.343);
3. A risk assessment dated 1 June 2014 in relation to the flashmob trip completed by Mrs Griffiths (p.344 to 347);
4. A statement of agreed facts dated 31 August 2016 submitted by Mrs Griffiths (p.334 to p.338);
5. A second witness statement dated 4 September 2016 from Mrs Griffiths with her response to the email from Individual A (as referred to at item 1 above) (p.348 to p.350); and
6. A witness statement dated 4 September 2016 from a former teacher of the School on behalf of Mrs Griffiths (p.352 to p. 353).

The panel confirmed that it had read all of the additional documents listed above once it had determined whether to admit such documents.

Witnesses

The panel heard oral evidence on behalf of the National College from Witness A who is the deputy headteacher at Harper Green Secondary School.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing and confirms that it has read all the additional documents provided by the presenting officer on behalf of the National College and Mrs Griffiths at the commencement of the hearing.

Mrs Griffiths began working at Harper Green Secondary School (the “School”) as a newly qualified teacher from 2009 and was there for approximately 5-6 years. Mrs Griffiths was Pupil A’s form tutor until Pupil A was in year 9. Between 2012 and 2014, Mrs Griffiths was Pupil A’s mentor under an informal arrangement. During the relevant time, Mrs Griffiths

was also a transition manager at the School which meant she assisted with events and arrangements in relation to year 6 primary school pupils who would be joining the School in the following year. As part of her role as transition manager, pupils in year 10 and year 11 (including Pupil A and Pupil C) would assist with these arrangements.

Whilst Pupil A was still a pupil at the School, Mrs Griffiths and Pupil A exchanged various emails. One email exchanged between Pupil A and Mrs Griffiths on 2 July 2014 contained a primary school intake list which provided details about the pupils who would join the School from year 6 the following year.

Pupil A left school in the summer of 2014. Shortly after this time, it is alleged that Pupil A and Pupil C went to Alton Towers with Mrs Griffiths as a reward for their support with the transition arrangements in respect of the new intake of year 6 pupils. Pupil A and Pupil C considered this to be an official school trip.

Thereafter, once Pupil A had already left the school, Mrs Griffiths and Pupil A kept in contact with each other by email and text. It is also alleged that after Pupil A left school, she stayed overnight at Mrs Griffiths' house on at least one occasion.

On 6 October 2014, Pupil A's uncle attended the School to report concerns regarding Pupil A and Mrs Griffiths' relationship. On 7 October 2014, Social Services visited Pupil A and Mrs Griffiths was suspended pending an investigation by the School into the concerns raised by Pupil A's uncle. A statement was also taken by the School on the same day from Pupil B.

On 9 October 2014, the School held a professional strategy meeting with the local authority designated officer, the police, social services and a senior HR advisor from Bolton Council to consider the concerns raised by Pupil A's uncle in respect of the relationship between Mrs Griffiths and Pupil A. A letter was sent to Mrs Griffiths by the School on 7 October 2014 to confirm she was being suspended and that a disciplinary investigation was to be held as soon as possible. On 10 December 2014, Mrs Griffiths was invited to attend a formal disciplinary hearing with the School's headteacher and the deputy HR business partner on 17 December 2014. Mrs Griffiths resigned on 16 December 2014, which was accepted by the School on 19 December 2014.

Since the panel decided to proceed with this hearing in the absence of the teacher, the panel has exercised vigilance in making its decisions, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard oral evidence Mrs Griffiths and given that she has not had the opportunity to test the evidence. The panel exercised great caution both in its questioning of the witness who attended to give evidence and during its deliberations.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

1. Failed to maintain professional boundaries towards Pupil A, in that:

a. whilst she was at the school in that you e-mailed Pupil A excessively and informally including late at night and during weekends;

The panel notes that Mrs Griffiths accepts that emails exchanged with Pupil A were excessive and were sent outside of school hours and she lists a number of examples of this in the agreed statement of facts (p.335). Mrs Griffiths also admits that this amounts to a failure to maintain boundaries (p.335). Pupil A also confirms that emails were exchanged with Mrs Griffiths outside normal school hours (p.31).

The panel has also seen copies of the contemporaneous emails exchanged between Mrs Griffiths and Pupil A whilst Pupil A was still at school (p.67 to p.111). The panel considers that the language and tone of the emails exchanged was informal and the emails often did not relate to coursework. For example, in an email dated 4 March 2014 at 23:08, Mrs Griffiths comments “Good girl (No [sic] how much you hate that!! ☺)...Will you miss me of [sic] I am not in tomorrow?” (p.67). The panel does not consider it appropriate for Mrs Griffiths to ask a student if she will miss her.

Further, the panel notes the multiple use of emojis in the emails exchanged between Pupil A and Mrs Griffiths (p.68) and in particular, notes that in an email dated 10 March 2014, Mrs Griffiths uses a broken heart emoji. Mrs Griffiths states that she used the icon to express her disappointment that Pupil A had completed coursework for other subjects before her ICT coursework (p.241). The panel however considers that the use of such emoji to be inappropriate in any circumstance. The panel notes that the acronym “Lol” is used regularly throughout the emails exchanged with Pupil A and considers that to be a term that is used outside of the professional context. The panel also considers it persuasive that there are 6 pages of emails all sent on 5 March 2014 with Pupil A from 6.49am until 10.24pm (p.69 to p.74) which contain a number of queries from Mrs Griffiths enquiring how Pupil A was and how she was feeling and that none of these emails referred to coursework. Further examples of the informal nature of the emails is the link Mrs Griffiths sent to Pupil A to a website selling shoes (p.111).

The panel also notes that in an email dated 5 March 2014 from Mrs Griffiths to Pupil A, Mrs Griffiths refers to her own “mental state” (p.69). The panel does not think it appropriate that a teacher should be sharing problems with a pupil which could cause the pupil to become concerned, particularly when that pupil appeared to be in a delicate position due to certain medical issues.

When considering this allegation, the panel also took into account the School’s acceptable use policy agreement (p.184) regarding the use of the IT to communicate with students and that such communication should be for academic purposes only. The panel

is satisfied that Mrs Griffiths was aware of such a policy as she had signed it on 22 March 2011 (p.188) and again when it had been updated on 25 September 2014 (p.186). The panel took into account the evidence given to it by Witness A that the change to the policy was predominantly to take into account a software change at the School.

The panel is satisfied that this allegation is proven.

b. within the first 4 months after she had left the school you:

i. continued to contact Pupil A on an informal basis by text and e-mail;

Mrs Griffiths accepts in her agreed statement of facts (p.336), witness statements and various letters to the panel that she exchanged emails and texts with Pupil A once Pupil A had left school. The panel notes that Mrs Griffiths states that she did so with the full consent and knowledge of Pupil A's mother (p.242 and p.255). Mrs Griffiths accepts that this communication with Pupil A amounted to a failure to maintain boundaries (p.324).

Pupil A also states that she remained in contact with Mrs Griffiths after she had left school (p.32). Pupil A's mother confirmed that she was aware of, and consented to, the contact (p.284). The panel has also seen examples of emails exchanged between Mrs Griffiths and Pupil A once Pupil A had left school (p.119). The panel has seen other emails sent around the same time but Mrs Griffiths states that these emails (p.114 – p.118, p. 120 and p.122 – p.126) are not between her and Pupil A.

In any event, as noted under allegation 1(a) above, the panel has found that Mrs Griffiths was aware of the School's acceptable use policy agreement (p.184). The panel notes that the policy states that for the purpose of the policy, any reference to "pupil" includes past pupils until they have reached the age of 18. The panel accepts the presenting officer's submissions that Pupil A left school at the age of 16 and therefore was under 18 when the emails in the bundle were being exchanged. The panel considers therefore that Mrs Griffiths was aware that communication with Pupil A when she left school was still covered by the School's acceptable use policy agreement (which was signed by Mrs Griffiths) (p.186 and p.188)

The School's rules are there to protect both the pupil and the teacher and therefore, the panel did not consider it relevant that Pupil A's mother consented to the emails being exchanged (p.284).

The panel is satisfied that this allegation is proven.

ii. took Pupil A to Alton Towers in the summer of 2014;

Mrs Griffiths accepts that she took Pupil A to Alton Towers in the summer of 2014 in her agreed statement of facts (p.337) and in her witness statement (p.243). Further, the panel notes that both Pupil A (p.31 and p.301) and Pupil C (p.18) confirm Mrs Griffiths

took them to Alton Towers. Pupil B's witness statement (p.27) also corroborates that Mrs Griffiths took Pupil A and Pupil C to Alton Towers. Witness A also reports in witness evidence that Pupil A's uncle had reported to the School that Mrs Griffiths had taken Pupil A and Pupil C to Alton Towers.

The panel finds this allegation proven.

iii. allowed Pupil A to stay overnight at your house on at least one occasion

Mrs Griffiths accepts that she allowed Pupil A to stay at her house and that this amounted to a failure to maintain professional boundaries (p.337). Mrs Griffiths further admits in her witness statement that she allowed Pupil A to stay with her at the beginning of September and October 2014 (p.242).

Pupil A states in her witness statement that she stayed at Mrs Griffiths house for around 9 days in October 2014 (p.32). Pupil B states in her witness statement (p.28) that Pupil A had told Pupil A's mum that Pupil A had stayed at Mrs Griffiths house.

Further, Witness A in her witness statement (p.22) describes that Pupil A's uncle had reported that Pupil A had informed him that she had been staying at Mrs Griffiths' house for a period of time when she had not returned home. Finally, Pupil A's mother confirms that she was aware that Pupil A stayed at Mrs Griffiths house and had no concerns about this (p.284).

The panel finds this allegation proven.

2. Pupils A and C were misled to believe that an official school trip had been arranged for you to take them to Alton Towers in the summer holidays of 2014;

The panel notes that Mrs Griffiths' submits that she had submitted all the necessary documentation to arrange the trip to Alton Towers for Pupil A and Pupil C (p.243).

However, the panel is not convinced by Mrs Griffiths' evidence that this was an authorised school trip. The panel prefers the evidence of Witness A which had been given under oath at the hearing that the School's policies and procedures in relation to school trips (p.217 to p.228) had always been in place since she started and were not followed. The panel finds Witness A to be a credible witness. The panel also found it convincing that both Pupil A and Pupil C report that Mrs Griffiths had paid for the Alton Towers' trip using the "Love to Shop" vouchers but that Witness A had commented during oral evidence that Mrs Griffiths had never provided the School with information on how she had allocated her "Love to Shop" vouchers.

Further, the panel accepts the oral evidence of Witness A that the School had a complete record of all trips since around 2008. The panel also accepts that Witness A had asked

the relevant staff member to double check the records on a number of occasions and that those checks extended to both paper and electronic records and that no reference was found to the Alton Towers trip. The panel finds it persuasive that there was no financial record of the School having paid for the Alton Towers trip for Pupil A and Pupil C. The panel also notes that there was no record of a criminal record check being carried out on Mrs Griffiths' husband (as would usually be the case if a non-member of staff was assisting with a school trip).

Finally, the panel accepts the evidence of Witness A given under oath that the School would never have approved a school trip involving one teacher and pupils no matter how small the pupil group was. The reason for this was that in the case of an emergency, there would always need to be another member of staff available to supervise.

The panel notes Mrs Griffiths' position that she was unable to obtain a copy of the application forms that she said she had completed as she was unaware of this allegation until January 2016, some 15 months after she had resigned (p.256). The panel however favours the evidence of the School as it thought it was more likely than not that had the appropriate paperwork been completed, there would have been some record at the School in either its paper, electronic or financial records.

The panel took into account the evidence from the former student teacher (p.287 to p.291) that he was aware of an Alton Towers trip. However, the panel finds the evidence of Witness A more persuasive that there was a formal trip to Alton Towers for year 10 students that that the former student teacher may have been mistaken on this point. Further, the panel notes that the former student teacher does not comment that he witnessed Mrs Griffiths complete the necessary paperwork to authorise the school trip for Pupil A and Pupil C.

The panel is not therefore persuaded that the trip to Alton Towers was a fully authorised school trip in accordance with the School's educational visits policy (p.217 to p.228).

Despite the fact that the panel finds it was not an authorised school trip, the panel notes that both Pupil A and Pupil C state that they received a consent letter for their parents to sign which was on school headed paper (p.18 and p.32). Pupil A's mother also provided evidence in her written statement that she had signed a consent letter for the Alton Towers' trip (p.284). The panels view is therefore that Pupil A and Pupil C were misled that this was an authorised school trip.

The panel finds this allegation proven.

- 3. Your conduct in regard to allegation 2 was dishonest in that this was communicated to the parents of Pupils A and C on a school letter-headed paper inviting them to consent to their participation without you having followed the necessary school procedures or obtained authority to arrange such a trip;**

The panel considers Mrs Griffiths to be aware of the Education Visits policy (p.217 to p.228) as she had completed paperwork for a flash mob trip using the same forms as are contained in the policy (p.340 to p.346).

As described above, the panel finds that the trip to Alton Towers in the summer of 2014 was not an authorised school trip. Witness A stated in oral evidence that if the full education visit policy process had been completed, a copy of the activities report would have been retained by the School which provided emergency contact details which Mrs Griffiths' would have had a copy of and therefore would have known that the full process had been followed.

The panel is also persuaded by Witness A's evidence that no school trip of this nature would ever have been authorised, particularly for year 11 pupils who had left the School.

The panel considers Mrs Griffiths had only followed part of the policy, to obtain parental consent for the trip and that Mrs Griffiths should have been fully aware that she had not completed the necessary paperwork in respect of obtaining authorisation from the School. The panel finds this action to be deliberate by Mrs Griffiths.

The panel received and accepted advice from the legal adviser that if it was satisfied on a balance of probabilities that Mrs Griffiths had deliberately misled Pupil A and Pupil C as to whether the trip to Alton Towers was an authorised school trip, then there was a further requirement to consider two questions when deciding whether Mrs Griffiths' actions were dishonest.

The panel was advised that the first limb of the traditional test to which panels are referred to is "whether the panel is satisfied on the balance of probabilities that Mrs Griffiths actions would be regarded as dishonest according to the standard of a reasonable and honest man".

The panel was informed of a High Court case of May 2015 concerning the appeal against a decision of a Professional Conduct panel which stated that the tribunal should first determine whether on the balance of probabilities, a defendant acted dishonestly by the standards of ordinary and honest members of that profession". If so, the panel was advised that it must then go on to determine whether or not it is more likely than not that Mrs Griffiths realised that what she was doing was by those standards dishonest. The panel accepted that only if the answer to both these questions is yes can the allegation of dishonesty be established in this case. The panel were also informed that the Court of Appeal in an appeal against a criminal conviction in December 2015 held that the required standard under the objective limb was the ordinary standards of reasonable and honest people. However, the Panel understands that it has yet to be seen whether that decision will be applied in the context of professional discipline proceedings, given the shift away from that test by the High Court.

The panel considers that Mrs Griffiths' conduct was dishonest according to the ordinary standards of a reasonable and honest person and teacher and that Mrs Griffiths' must have known that what she was doing was dishonest as she asked Pupil A and Pupil C's parents to sign consent letters knowing that the trip had not been authorised by the School.

The panel finds this allegation proven.

4. Failed to follow safeguarding and data protection guidance in that you:

a. Provided confidential information about other students to Pupil A;

The panel notes that there is an email from Mrs Griffiths to Pupil A (p.112) which attached a school intake list detailing year 6 pupils names, genders and which rated their abilities and behaviours on a scale of 1 to 4. The panel considers such information to be confidential and is persuaded by the evidence of Witness A that it would be easy for a student to identify what the scoring meant. The email to Pupil A is not therefore in accordance with the School's confidentiality policy (p.207) and guide to safer working practices for adults (p.229).

The panel accepts the evidence of Witness A that the School regularly reminded staff at heads of department meetings and year team meetings every half term about data protection and confidentiality. The panel considers that Mrs Griffiths would therefore have been aware of such policies. The panel also accepts Witness A's confirmation that Mrs Griffiths would have attended the training delivered on 20 December 2012 which discussed data protection and confidentiality (p.138 - p.176).

The panel considers that Mrs Griffiths was aware of the need to protect pupil's confidential information. The panel notes there was no need to share all the information on the intake list which was sent to Pupil A . The only information which was necessary to enable Pupil A to rearrange the appointments was the year 6 pupils' names and time of appointments. Further, the panel notes that there was no warning by Mrs Griffiths in the email to Pupil A not to circulate the information provided.

The panel is not persuaded by the evidence of Mrs Griffiths and other witnesses at the year 6 intake pupils meetings that the lists would be left on desks in the form that Mrs Griffiths had sent to Pupil A. The panel notes that even if that was the case, that did not excuse a breach of the School's data protection policies (p.231).

The panel finds this allegation proven.

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

Having found all of the allegations to have been proven, including dishonesty, the panel has gone on to consider whether the facts of those proven allegations amount to

unacceptable professional conduct and/or conduct that may bring the profession into disrepute. In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

The panel notes that unacceptable professional conduct is defined as misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher. In making a judgement as to whether the behaviour demonstrated falls significantly short of the standard expected of a teacher, the panel has drawn on its own knowledge and experience of the teaching profession as well as the Teachers’ Standards.

The panel is satisfied that the conduct of Mrs Griffiths in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mrs Griffiths 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; and
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions,
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

The panel is satisfied that the conduct of Mrs Griffiths fell significantly short of the standards expected of the profession. In this respect, excessive and repeated informal communication with a pupil could lead to a pupil being exposed to serious harm. The panel considers it important that boundaries between teachers and pupils are maintained on a formal basis and limited to the education setting so that pupils are aware if boundaries were not being maintained, this is inappropriate behaviour and should be reported to their school.

The panel notes that Mrs Griffiths had discussed her own problems with a potentially delicate pupil (given the School’s concerns over Pupil A’s health). This could have the impact of putting pressure on Pupil A and causing her concern which may have had an impact on her own health. The panel considers that it was also a serious departure from the standards to take pupils on school trips without the necessary paperwork in place. The paperwork is required to protect pupils and could have resulted in harm being caused to pupils under different circumstances (particularly in relation to pupils being accompanied by adults without the necessary DBS checks).

The panel has also considered whether Mrs Griffiths conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel did

not consider that this was a case involving serious dishonesty as the Alton Towers' trip appeared to be a one-off incident and it appears to have been done with the best of intentions. The panel has therefore not found any of these offences to be relevant.

The panel notes that allegations 1(b) and 2 took place outside of the education setting. The panel considers that this conduct may lead to pupils being exposed if proper procedures are not followed. Further, it could lead to pupils becoming susceptible to possible grooming or other serious harm if they consider it to be usual for pupils to stay in touch with teachers or stay at teachers' houses.

The panel is satisfied that Mrs Griffiths is guilty of unacceptable professional conduct.

With reference to conduct that may bring the profession into disrepute, the panel has taken into account how the teaching profession is viewed by others and considers the influence that teachers may have on pupils, parents and others in the community. The panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

In the circumstances, the panel is of the view that Mrs Griffiths' conduct in being deliberately dishonest regarding the authenticity of a school trip, which is repeated in her witness statements, amounts to conduct which would likely have a negative impact on her status as a teacher, potentially damaging the public perception.

The panel finds that Mrs Griffiths' actions also constitute conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely:

- the protection of pupils

- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct

In light of the panel's findings against Mrs Griffiths, which involved inappropriate and excessive contact with a pupil both inside and outside the school setting and which involved overnight stays at Mrs Griffiths' house, there is a strong public interest consideration in respect of the protection of pupils. Such activity could have led to an opportunity in another context for pupils to be subject to serious harm.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Griffiths in respect of dishonesty was not treated with the utmost seriousness when regulating the conduct of the profession. Finally, the panel notes that Mrs Griffiths should be aware that whilst offering support to pupils, this must be within the proper standards of conduct.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order taking into account the effect that this would have on Mrs Griffiths.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mrs Griffiths. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;

Even though there were behaviours that would point to a prohibition order being appropriate, the panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The panel has already found that Mrs Griffiths' actions, particularly in relation to the dishonesty allegation were deliberate. Although Mrs Griffiths has stated that she was under pressure with her workload, and this has led to her actions (p.255), the panel did not find this amounted to duress within the meaning of the Advice. The panel preferred the oral evidence of Witness A that Mrs Griffiths could have delegated her work more and that her workload was not noticeably more than that of any other teacher.

Mrs Griffiths does have a previous good history and the panel accepts that the incidents subject to allegation 2 and 3 were out of character.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mrs Griffiths particularly when it comes to the protection of vulnerable or potentially vulnerable pupils and providing the opportunity to safeguard children from harm. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to recommend that a review period of the order should be considered. The panel was mindful that the Advice advises that a prohibition order applies for life, but there may be circumstances in any given case that 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 panel notes that Mrs Griffiths has shown some remorse but has displayed limited insight into her actions. The panel notes in this respect that Mrs Griffiths only agreed the statement of facts on 31 August 2016 after knowing the allegations against her since January 2016. The panel also notes that despite accepting the facts subject to the allegations, Mrs Griffiths maintained that such actions did not amount to unacceptable professional conduct or conduct bringing the profession into dispute. Finally, the panel notes that Mrs Griffiths appears to fail to accept responsibility for her actions and seeks to apportion blame elsewhere.

The panel does however consider that Mrs Griffiths has supplied a number of character references which go toward Mrs Griffiths' ability as a teacher (p.262, p.265 to p.266, p.269 to p.272, p.276 to p.278, p.279, p.291 and p.295 to p.296). The panel has balanced the need to protect pupils against the public interest of not denying the public a good teacher.

The panel finds that this case is one 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 for a period of 2 years. The panel considers that this should allow Mrs Griffiths the opportunity to reflect on her own behaviour and to take steps to modify her relationships with pupils to be within the standards expected of a teacher and to maintain appropriate boundaries.

Decision and reasons on behalf of the Secretary of State

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found all of the allegations and facts proven, and that Mrs Griffiths is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute.

I have considered the public interest in this case. I note the panel considered the particular public interest considerations relevant, namely: the protection of pupils; the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

I agree with the panel that there is a strong public interest in respect of the protection of pupils. Such activity could have led to an opportunity in another context for pupils to be subject to serious harm. I agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Griffiths in respect of dishonesty was not treated with the utmost seriousness.

I have taken into account the need to balance the public interest with the interests of Mrs Griffiths.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mrs Griffiths. I agree with the panel's view, particularly when it comes to the protection and safeguarding of children. I support the recommendation of the panel that Mrs Griffiths be prohibited. I agree that this is both proportionate and appropriate.

I have also considered the matter of a review period.

The panel notes that Mrs Griffiths has shown some remorse, but has displayed limited insight into her actions. Mrs Griffiths appears to fail to accept responsibility for her actions and seeks to apportion blame elsewhere. However, I note the panel has considered a number of character references which support Mrs Griffiths' ability as a teacher. I also note the panel has balanced the need to protect pupils against the public interest of not denying the public a good teacher.

The panel felt the findings indicated a situation where a review period would be appropriate, and recommend that Mrs Griffiths be allowed to apply for a review after a period of 2 years. I agree with the panel that this period should allow Mrs Griffiths the opportunity to reflect on her own behaviour and to act within the standards expected of a teacher.

For the reasons set out above, I agree with the panel's recommendation.

This means that Mrs Clare Griffiths is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 16 September 2018, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Griffiths remains prohibited from teaching indefinitely.

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

Mrs Griffiths has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to be 'J. Millions', with a small dot at the end.

Decision maker: Jayne Millions

Date: 8 September 2016

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