



National College for  
Teaching & Leadership

# **Mr James Waiters: Professional conduct panel outcome**

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

**August 2017**

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

**Teacher:** Mr James Waiters  
**Teacher ref number:** 0463202  
**Teacher date of birth:** 13 June 1979  
**NCTL case reference:** 15540  
**Date of determination:** 10 August 2017  
**Former employer:** High Storrs School, Sheffield

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 9 – 10 August 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr James Waiters.

The panel members were Mrs Gill Goodswen (former teacher panellist – in the chair), Dr Robert Cawley (teacher panellist) and Mr Maurice McBride (lay panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the National College was Ms Holly Quirk of Browne Jacobson LLP solicitors.

Mr Waiters was present and was represented by Ms Diane Ellis of NASUWT.

The hearing took place in public and was recorded.

### **B. Allegations**

The panel considered the allegations set out in the Notice of Proceedings dated 27 March 2017.

It was alleged that Mr James Waiters was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at High Storrs School:

1. During 2015, he engaged in an inappropriate relationship with Witness A, a former pupil, which was of a sexual nature;

2. On or around 4 November 2015, he lied to the headteacher during his Disciplinary Investigation Meeting since he stated that he was not in a relationship with Witness A;
3. In doing 2 above, he was dishonest.

At the outset of the hearing, Mr Waiters admitted the facts of allegation 2.

Allegations 1 and 3 were denied and Mr Waiters also denied that his conduct amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## **C. Preliminary application**

### **Application for the hearing to be held in private and/or for the name and identity of High Storrs School to be anonymised**

After hearing submissions from the presenting officer and the teacher's representative and receiving legal advice, which the panel accepted, the Chair announced the decision of the panel as follows:

The panel carefully considered a request from Mr Waiters that the hearing take place in private.

The reason relied upon was Mr Waiter's continuing relationship with Witness A, who is already anonymised for the purposes of these proceedings.

Mr Waiters' concern was that Witness A could potentially be identified, notwithstanding her being anonymised, and he accordingly sought the exclusion of the public from the hearing.

Whilst the panel had not been invited to make a formal decision regarding the anonymising of Witness A, on balance it considered it was in the interests of justice for Witness A to be anonymised in these proceedings given the nature of the allegations and that she is present to give evidence with the expectation that her identity was to be protected.

The panel took into account the fact that there is a presumption that these proceedings will take place in public and there is a public interest in the openness and transparency of the disciplinary process.

The panel also noted that the outcome of the hearing will be announced in public.

On balance, the panel determined that the public interest in these proceedings taking place in public outweighs Mr Waiters concerns and, therefore, the interests of Witness A.

The panel has accordingly decided that this hearing should take place in public.

The panel also considered an alternative submission made on behalf of the National College that Witness A's evidence could be heard in private. For the same reasons, the panel did not consider this was appropriate on the particular facts of this case.

In relation to Mr Waiters' request for the name of High Storrs School to be also anonymised, the panel was not satisfied that on the particular facts of this case it was appropriate to do so having regard to the need to ensure public scrutiny and transparency in regulatory proceedings. The panel was mindful that in departing from the general rule that hearings had to be held in public it must do no more than is strictly necessary to address the concerns that had been raised in relation to Witness A and considered that her being anonymised was both sufficient and proportionate.

## **D. Summary of evidence**

### **Documents**

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 1 to 5

Section 2: Notice of Proceedings and response – pages 6 to 14

Section 3: NCTL witness statements – pages 15 to 22

Section 4: NCTL documents – pages 23 to 90

Section 5: Teacher documents – pages 91 to 107

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

### **Witnesses**

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

- Witness A, a former pupil at High Storrs School; and
- Witness B, the former headteacher of High Storrs School.

The panel also heard oral evidence from Mr Waiters.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

It has accepted the legal advice provided.

Throughout the relevant time for the purposes of these proceedings, Mr Waiters was employed at High Storrs School ("the School") as a teacher of music.

He commenced employment at the School on 1 September 2007.

In September 2014, Mr Waiters commenced teaching Witness A, then a Year 13 pupil at the School. She was one of approximately nine, Year 13 pupils taught A level music by Mr Waiters during that school year.

In or around December 2014, Mr Waiters began to tutor Witness A privately at her home. His evidence was that he did so at the request of Witness A's mother in order to assist with certain aspects of her A level studies with which she was having difficulty. He continued to tutor Witness A until March 2015.

At some point in May 2015, Witness A commenced a period of study leave in advance of her A level examinations. Thereafter, she was no longer present at the School on a continuous basis.

She subsequently completed her exams and came off the School's roll. She turned 18 in early July 2015.

There was a conflict in the understanding of the precise date when she officially left the School.

A letter from the School included within the hearing papers indicated that she came off the roll on 17 July 2015.

However, in oral evidence Witness B, headteacher of the School from January 2010 until approximately August 2016, stated that, in his opinion, Witness A did not come off the roll until the end of the school year on 31 August 2015.

Witness A stated, to her mind, she left the School upon the commencement of her study leave in May 2015.

The precise date was of particular relevance given that it was accepted that by the end of August 2015 at the latest, Witness A and Mr Waiters were in a sexual relationship. They remain in a relationship to this day. The panel consider this issue further in relation to allegation 1.

In early September 2015, reports of a relationship between Mr Waiters and Witness A were relayed to Witness B. Having undertaken some preliminary investigations, on 8 September 2015 he made a LADO referral to Sheffield City Council.

On 12 October 2015, Witness B was advised that no criminal investigation was being pursued and that the matter should be dealt with in accordance with the School's disciplinary procedures.

Mr Waiters was subsequently invited to and attended disciplinary investigation meetings on 4 November 2015 and 12 November 2015.

The nature and content of the discussions which took place at the meeting on 4 November 2015 between Mr Waiters and Witness B was the subject of allegations 2 and 3.

By letter dated 12 November 2015, Mr Waiters was suspended from duty. A disciplinary process subsequently commenced which led to Mr Waiters' dismissal and referral to the National College.

The panel confirms that it has not relied upon any findings made or opinions expressed during the School's investigation and disciplinary proceedings and it has formed its own view of the allegations based on the evidence presented to it.

## **Findings of fact**

Our findings of fact are as follows:

- 1. During 2015, you engaged in an inappropriate relationship with Witness A, a former pupil, which was of a sexual nature.**

Mr Waiters admitted that by the end of August 2015 he was in a relationship with Witness A which was of a sexual nature.

However, he disputed that the relationship was inappropriate and allegation 1 was denied on that basis.

Mr Waiters' evidence was that until the end of July 2015 the relationship was strictly professional.

Whilst during the course of his disciplinary hearing on 4 November 2015 Mr Waiters had indicated that he and Witness A had grown close during the course of their private tutoring arrangement, he denied there was anything untoward and stated that her parents were present at all times. He also sought and received clearance from his immediate line manager, the head of music at the School, though there was a residual dispute (which the panel did not consider it necessary to resolve) as to whether he was nevertheless in breach of School policy.

Mr Waiters' account was that the relationship only began to develop after the end of the school term on or around 19 July 2015 following which Witness A agreed to participate in a soul band gig, which Mr Waiters was helping to organise.

In the period between 19 July 2015 and 14 August 2015, Mr Waiters stated that they began to spend an increasing amount of time together, which included band rehearsals, local runs, tennis and a day trip to Manchester.

He stated that they began dating following the gig on 14 August 2015, though the panel noted that during the course of his disciplinary interview on 12 November 2015, Mr Waiters appeared to accept that they began dating at the end of July.

In any event, it was admitted by Mr Waiters that the relationship became sexual in or around the last week of August 2015.

The relationship subsequently ceased in early September 2015 when Witness A's parents objected to it. However, her parents subsequently relented and, having received their consent, the relationship recommenced at the end of October 2015 and has continued since.

Mr Waiters' evidence was corroborated by the evidence of Witness A.

There was conflicting evidence which suggested that the relationship had developed beyond a normal teacher/pupil relationship prior to the end of the summer term.

In particular, Witness B gave evidence that he was notified by two sixth form pupils, Pupil B and Pupil C, that they had observed Mr Waiters and Witness A behaving intimately following a School prom on 25 June 2015.

Those same pupils also gave an account to Witness B that they had observed Mr Waiters and Witness A together in Manchester. They reported to Witness B that the grandmother of one of the pupils said she had witnessed the people identified as Mr Waiters and Witness A holding hands and kissing.

These accounts were denied by both Mr Waiters and Witness A.

The panel did not have the benefit of hearing from Pupil B and Pupil C or the grandmother in oral evidence. It accordingly did not have an opportunity of testing their version of events. They had not provided written witness statements.

On that basis and on the balance of probabilities, the panel treated their hearsay accounts with caution and accepted the evidence of Witness A and Mr Waiters insofar as the timeline of events was concerned. It accordingly found as a matter of fact that as from 14 August 2015 Mr Waiters and Witness A were in a relationship which became sexual shortly thereafter.

As already noted, there was a dispute as to the precise date on which Witness A came off the School's roll.

Having carefully considered all of the evidence and on the balance of probabilities, the panel concluded that the relationship was inappropriate. On the particular facts of this



case, the panel concluded that the fact that the relationship became sexual so soon after the end of the summer term, whether or not Witness A had formally come off the roll, was such that it was certainly inappropriate.

It also considered that the way in which the relationship developed was such that Mr Waiters had allowed his professional boundaries to become blurred and he had failed to maintain appropriate professional standards.

In arriving at its decision the panel had regard to the fact that Witness A and Mr Waiters took steps to conceal their relationship.

It also relied upon the various acknowledgements made by Mr Waiters during the course of his disciplinary investigation meeting on 12 November 2015 to the effect that he conceded the relationship was inappropriate.

Whilst Mr Waiters had sought to resile from those admissions during his oral evidence, the panel concluded that they were indicative of his state of mind at the relevant time.

Further, the panel considered the fact that Mr Waiters lied to Witness B as to the existence of the relationship, which was the subject matter of allegations 2 and 3 and admitted by Mr Waiters, demonstrated his awareness that the relationship was inappropriate.

Mr Waiters also accepted in his evidence that the relationship could have been perceived by others to be inappropriate.

Neither Mr Waiters nor Witness A gave evidence that they had given any conscious thought as to the precise date on which she had come off the School roll before engaging in the relationship.

Accordingly and on that basis, the panel found allegation 1 proven.

**2. On or around 4 November 2015, you lied to the Headteacher during your Disciplinary Investigation Meeting since you stated that you were not in a relationship with Pupil A.**

The panel had careful regard to the notes of the Disciplinary Investigation Meeting on 4 November 2015 attended by Mr Waiters.

The panel also heard oral evidence from Witness B who was in attendance at the meeting.

The panel considered that it was clear from the notes and from Witness B's evidence that during the course of that meeting Mr Waiters repeatedly denied that he was in a relationship with Witness A.

Mr Waiters has not sought to challenge the accuracy of the notes and he accepted that he lied to Witness B. It was not in dispute that he was in a relationship with Witness A by the end of October 2015 and the panel repeats its earlier findings as regards the chronology of events.

At the outset of the hearing, allegation 2 was admitted by Mr Waiters.

Given that admission and having considered all of the evidence before it, it was clear that Mr Waiters had lied to Witness B and the panel found allegation 2 proven.

### **3. In doing 2 above you were dishonest.**

Given the panel's findings in relation to allegation 2, it went on to consider whether Mr Waiters' conduct was dishonest.

Mr Waiters denied that he had acted dishonestly.

Whilst he accepted that he had lied to Witness B, Mr Waiters' position was that he had made a single, albeit "*big*" mistake which he had regretted ever since and which he had immediately sought to rectify.

In his oral evidence, Mr Waiters asserted that he had gone to see Witness B the day before the meeting and, whilst he had initially suspected that the meeting was likely to concern Witness A, he was assured by the fact that Witness B told him not to worry. He subsequently speculated that the meeting could be to do with other issues; he was aware that such meetings had been conducted with other staff members.

Mr Waiters stated that when the meeting started and it became apparent that it was to do with Witness A, he panicked and started to not tell the truth. However, within less than 24 hours he stated that he approached Witness B, acknowledged that he had made a mistake and requested another meeting in order to tell "*the whole truth*". That led to the meeting on 12 November 2015 at which Mr Waiters' union representative was present when Mr Waiters admitted that he was in a relationship with Witness A.

On that basis, he denied that he was dishonest.

The panel accepted that his dishonesty was relatively short-lived in that Mr Waiters subsequently took steps to rectify the position.

However, the panel noted that Mr Waiters had lied to Witness B at a formal disciplinary meeting of which he had advance notice in writing. He admitted that he had at least considered the possibility that it could be to do with his relationship with Witness A.

In her oral evidence, Witness A confirmed that it was her expectation that the meeting would be about their relationship, and that she had discussed the matter with Mr Waiters.

Further and in any event, there was clearly an imperative for, and an expectation upon Mr Waiters to answer truthfully any questions reasonably asked of him by his headteacher.

In those circumstances, the panel was satisfied that Mr Waiters acted dishonestly by the standards of reasonable and honest people.

The panel concluded that there was a clear intention to deceive, taking into account all of the circumstances.

The panel was also satisfied that Mr Waiters realised that what he was doing was dishonest by those standards.

It considered that he was attempting to cover up his actions in circumstances where he understood that his behaviour was inappropriate or at least could be perceived as being so.

Mr Waiters accepted that he had lied. He subsequently took steps to rectify the position and acknowledged that he regretted his actions. The panel considered that this evidenced that he knew he had behaved dishonestly.

Rather than decline to answer questions about his relationship with Witness A, Mr Waiters positively asserted information that he knew to be false.

That the dishonesty may have been relatively short-lived did not detract from the fact that it was dishonest to have not provided truthful answers and Mr Waiters knew that to be so.

Mr Waiters' representative conceded in her closing submissions that whilst Mr Waiters found it difficult to accept because he felt it reflected on his general character, his actions in lying on 4 November 2015 can be seen as nothing other than dishonest. However, she submitted that it was a single event, he was foolish and his actions were not repeated.

Accordingly, the panel found allegation 3 proven in relation to the actions found proven in allegation 2.

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

Having found all of the allegations proven, the panel went on to consider whether the facts of those 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 Waiters in relation to the facts found proven, involved breaches of the Teachers' Standards.

The panel considered that by reference to Part Two, Mr Waiters 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
  - ... building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
- 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 also considered whether Mr Waiters' conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found that none of these offences were relevant.

The panel was satisfied that the conduct of Mr Waiters in relation to the facts found proved in allegations 1, 2 and 3 fell significantly short of the standards expected of the profession.

Having found the facts of allegation 1 proved, the panel considered that Mr Waiters' actions amounted to a failure to maintain appropriate professional boundaries with Witness A and his behaviour constituted misconduct of a serious nature.

He held a position of trust as a teacher and it was incumbent on him to ensure that appropriate professional boundaries were maintained and to set an example at all times.

In relation to allegations 2 and 3, whilst the panel took account of the fact that Mr Waiters had taken steps to rectify his dishonest behaviour within a relatively short period of time, his conduct nevertheless fell significantly short of the requisite standards expected of him.

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

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

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

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

In summary, having found the facts of allegations 1, 2 and 3 proved, the panel further found that Mr Waiters' conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel was required to consider whether it was an appropriate and proportionate measure, and whether it was 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; and
- declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Waiters, which involved findings of inappropriate behaviour with Witness A and dishonesty, there is a strong public interest consideration in this case.

The panel considered that the risk as regards the need to protect pupils is low on the particular circumstances of this case. Whilst the panel had found that Mr Waiters' conduct in engaging in a relationship with Witness A was inappropriate and serious, the panel accepted that there was no pattern of previous similar behaviour and Mr Waiters and Witness A remain in a relationship to this day. In short, the panel did not consider that Mr Waiters posed a continuing risk to pupils.

However, the panel considered that public confidence in the profession could be weakened if conduct such as that found proven by the panel was not treated with the utmost seriousness when regulating the conduct of the profession.

Similarly, the panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present in this case. There was also a public interest in terms of deterring others.

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 Mr Waiters.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Waiters.

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, relevant in this case is that the behaviour amounted to a serious departure from the personal and professional conduct elements of the Teachers' Standards and dishonesty had been found proven.

Given their potential relevance to its findings, the panel carefully considered whether the following behaviours in particular were present:

- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk; and/or
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils; and/or
- sexual misconduct, eg involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

On balance, the panel concluded that on the particular facts of this case these behaviours were not present.

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.

In light of the panel's findings it considered that the following mitigating factors were present:

- Mr Waiters had a prior good history. There was no evidence that he had been subject to any previous regulatory or disciplinary proceedings. Evidence of his prior good character was included within the hearing papers and considered by the panel. Mr Waiters confirmed that two of the three referees were made aware of the allegations in this case prior to providing their references.
- Mr Waiters had made some admissions.
- The panel considered that Mr Waiters had demonstrated insight into his failings. Whilst the panel had found that Mr Waiters had acted dishonestly in lying to Witness B at the meeting on 4 November 2015, it had regard to the fact that Mr Waiters was provided with only limited notice of the meeting and had been assured there was nothing to worry about. His evidence, which the panel accepted, was that he had panicked. Whilst he should not have lied and had acted dishonestly accordingly, the very next day he took steps to remediate his dishonesty of his own volition. He accepted that he had behaved wrongly and genuinely regretted his actions. In all the circumstances the panel considered that the dishonesty, whilst foolish and misguided, could not properly be described as serious.
- In terms of his conduct in relation to allegations 2 and 3, Mr Waiters had shown remorse for his actions.
- He had participated in these proceedings and attended to give evidence in person.
- There was positive evidence of his teaching practices from Witness B and the references he had provided.

In terms of aggravating factors, the panel considered that:

- Mr Waiters' actions were deliberate.
- There was no evidence that Mr Waiters was acting under duress.
- There had been a clear breach of the Teachers' Standards.

Having carefully weighed all of these considerations, the panel is not of the view that prohibition is a proportionate and appropriate response.

Given the particular circumstances of the behaviour in question and in light of the mitigating factors that were present in this case, the panel has determined that a recommendation for a prohibition order was not appropriate.

In arriving at that conclusion, the panel considered that its findings of unacceptable professional conduct and conduct that may bring the profession into disrepute were sufficient without unacceptably compromising the objective of protecting the public

interest. The panel accordingly considered this recommendation was proportionate in that it struck a fair balance between the need to protect the public interest and the effect on Mr Waiters. The panel's findings of misconduct were serious and would certainly convey moral blameworthiness to the ordinary citizen. Further, the panel considered that its findings would undoubtedly affect his professional reputation and employment prospects, should he desire to return to the profession.

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

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

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

In this case the panel has found the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel has made a recommendation to the Secretary of State that Mr Waiters should not be the subject of a prohibition order.

In particular the panel has found that Mr Waiters 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;
  - ... building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position.
- 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.

In this case the panel has found that Mr Waiters is guilty of both an inappropriate relationship and of dishonesty.

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



therefore whether or not prohibiting Mr Waiters, and the impact that will have on him, is proportionate.

In this case I have considered the extent to which a prohibition order would protect children. The panel has observed “the panel did not consider that Mr Waiters posed a continuing risk to pupils.” I have also taken into account the panel’s comments on insight and remorse which the panel sets out as follows, “The panel considered that Mr Waiters had demonstrated insight into his failings.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that, “the panel’s findings against Mr Waiters, which involved findings of inappropriate behaviour with Witness A and dishonesty, there is a strong public interest consideration in this case.”

I am particularly mindful of the finding of dishonesty in this case as well as the finding of an inappropriate relationship and the impact that those both have on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Waiters himself. I have noted that there were positive comments on Mr Waiters’ teaching. A prohibition order would prevent Mr Waiters from continuing as a teacher and would deprive the public of his contribution to the profession for the period that it is in force.

The panel has also said that Mr Waiters, “In terms of his conduct in relation to allegations 2 and 3, Mr Waiters had shown remorse for his actions. He had participated in these proceedings and attended to give evidence in person and there was positive evidence of his teaching practices from Witness B and the references he had provided.”

The panel has also said, “Mr Waiters’ actions were deliberate, there was no evidence that Mr Waiters was acting under duress and there had been a clear breach of the Teachers’ Standards.”

I have given less weight to the finding of dishonesty as it is clear from the panel that, “the dishonesty, whilst foolish and misguided, could not properly be described as serious.”

I have given greater weight in my consideration of sanction to the finding of an inappropriate relationship. The panel have said: "Having carefully considered all of the evidence and on the balance of probabilities, the panel concluded that the relationship was inappropriate. On the particular facts of this case, the panel concluded that the fact that the relationship became sexual so soon after the end of the summer term, whether or not Witness A had formally come off the roll, was such that it was certainly inappropriate".

It also considered that the way in which the relationship developed was such that Mr Waiters had allowed his professional boundaries to become blurred and he had failed to maintain appropriate professional standards.

In arriving at its decision the panel had regard to the fact that Witness A and Mr Waiters took steps to conceal their relationship.

It also relied upon the various acknowledgements made by Mr Waiters during the course of his disciplinary investigation meeting on 12 November 2015 to the effect that he conceded the relationship was inappropriate.

Whilst Mr Waiters had sought to resile from those admissions during his oral evidence, the panel concluded that they were indicative of his state of mind at the relevant time.

Further, the panel considered the fact that Mr Waiters lied to Witness B as to the existence of the relationship, which was the subject matter of allegations 2 and 3 and admitted by Mr Waiters, demonstrated his awareness that the relationship was inappropriate.

Mr Waiters also accepted in his evidence that the relationship could have been perceived by others to be inappropriate.

Neither Mr Waiters nor Witness A gave evidence that they had given any conscious thought as to the precise date on which she had come off the School roll before engaging in the relationship.

I have given significant weight to this finding in considering the sanction in this case.

I have given less weight in terms of mitigation to the statement from the panel that, "the relationship recommenced at the end of October 2015 and has continued since."

I have carefully considered the guidance published by the Secretary of State. The guidance says, "sexual misconduct e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position. "

This case is very challenging. On the one hand it is clear that the sexual relationship commenced after Pupil A was 18 years old. There is a factual dispute as to whether or not Pupil A was still a pupil. Nonetheless the panel has found that the relationship was inappropriate. I have not gone behind that finding. It became a sexual relationship before the end of August when she had taken her A Levels during the summer term. So the relationship began in very close proximity to the time when she was a pupil and when Mr Waiters had a professional position in relation to her.

The panel has also said, “the panel considered that its findings would undoubtedly affect his professional reputation and employment prospects, should he desire to return to the profession.”

I have weighed up all of the factors in this case. I have given greater weight to the fact that this was an inappropriate relationship. In my view the panel has not given sufficient consideration as to how the public interest and the public reputation of the profession will be harmed by a decision not to impose a prohibition order in this case. I have also given considerable weight to the comment made by the panel, “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.”

For all of those reasons I have concluded that a prohibition order is proportionate and in the public interest.

I have gone on to consider the matter of a review period. In this case the panel has not made a recommendation.

I have considered whether a 2 year review period, which is the minimum period in legislation, 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 consider that a 2 year review period is sufficient.

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 James Waiters 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 23 August 2019, 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 James Waiters remains prohibited from teaching indefinitely.

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

Mr James Waiters 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.

Handwritten signature in grey ink, appearing to read 'Alan Meyrick'.

**Decision maker: Alan Meyrick**

**Date: 18 August 2017**

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