



National College for
Teaching & Leadership

Mr Philip Pedley: Professional conduct panel outcome

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

February 2018

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

Teacher: Mr Philip Pedley
Teacher ref number: 7941737
Teacher date of birth: 24 August 1957
NCTL case reference: 15988
Date of determination: 14 February 2018
Former employer: Oundle School, Peterborough

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 12 to 14 February 2018 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Philip Pedley.

The panel members were Mr Ian Carter (teacher panellist – in the chair), Mrs Ann Walker (former teacher panellist) and Mrs Caroline Tilley (lay panellist).

The legal adviser to the panel was Ms Amy Hall of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the National College was Ms Lucy Coulson instructed by Browne Jacobson solicitors.

Mr Pedley was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 20 October 2017.

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

Whilst employed as a teacher between 1 September 1990 and 21 December 2016 at Oundle School, on one or more occasions he:

1. Made inappropriate comments to and/or about one or more Pupils in that he made comments to the effect of:
 - a. Saying to other members of staff “I don’t want to teach blackies and chinkies in my classroom”
 - b. Saying to a Pupil that in [Redacted], people sit on the floor and the Pupil was lucky to have chairs to sit on in this country
 - c. Asking a [Redacted] Pupil “how do you make your money? Are your parents in the [Redacted]?”, and/or “is your dad in the [Redacted]?” and/or “does your dad do bang-bang?”
 - d. Asking whether a [Redacted] Pupil owned [Redacted]
 - e. When referring to [Redacted] and/or [Redacted] Pupils said “put him on the next boat back to [Redacted]”, and/or “I’ll buy you a one-way ticket and put you on a train back to [Redacted]. See how you like that” and/or “has he got the ship back?”
 - f. Asking a [Redacted] Pupil whether it was his father’s job to [Redacted] and/or whether he “makes money from the bang-bang” and/or “did you bring any illegal substances?”
 - g. Saying to a [Redacted] Pupil, “Oh you’re from [Redacted]. Does your dad do boom boom?” and/or “your father must have come over, stealing our jobs”
 - h. Saying to a [Redacted] Pupil “that’s pretty good for a foreigner”
 - i. Asking a [Redacted] Pupil if he was a “[Redacted]”
 - j. Swearing in class including using words such as “Shit” and/or “Crap”
 - k. Calling a [Redacted] Pupil “[Redacted]”
 - l. Calling a [Redacted] Pupil “[Redacted]”

- m. Calling a Pupil a “Stupid girl” and/or stating “We’re not highlighting, we’re learning. Put away your highlighter, we’re not in [Redacted]” and/or “We’re not in [Redacted] anymore, you should not be writing in your prep diary”
 - n. Calling a Pupil from [Redacted] “[Redacted]”
 - o. Mispronouncing a Pupil’s name as “[Redacted]”
 - p. Calling a Pupil a “Witch”
 - q. Referring to Pupils as “Hindus”
2. One or more of his comments, as may be found proven at 1 above, amounted to:
- a. racist language;
 - b. language associated with negative racial and/or cultural stereotypes;
 - c. making derogatory and/or disparaging remarks about pupils.
3. In or around November 2015, whilst acting as trip leader for a visit to Vienna and Budapest, he breached one or more of Oundle School’s Staff Code of Conduct, Pupil Alcohol Policy, Staff Misuse of Alcohol, Drugs and Prohibited Substances Policy and Educational Visits and Expeditions Policy by:
- a. consuming alcohol whilst on duty and in the presence of Pupils
 - b. purchasing alcohol, specifically a [Redacted], for an underage Pupil without a substantial meal
 - c. smoking a cigarette in the presence of Pupils
 - d. permitting Pupils to take a comfort break which he knew to be a request to smoke
 - e. failing to exercise his duty of care towards pupils and taking all reasonable steps to ensure the safety and wellbeing of Pupils by:
 - i. allowing/permitting Pupils to consume excessive alcohol;
 - ii. consuming excessive alcohol himself whilst responsible for Pupil’s welfare

Mr Pedley has not admitted these facts and has not admitted that they amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

Proceeding in Mr Pedley's absence

The panel has considered whether this hearing should continue in the absence of Mr Pedley.

The panel is satisfied that NCTL has complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel is also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (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 Mr Pedley.

The panel understands that its discretion to commence a hearing in the absence of the teacher 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 has noted that Mr Pedley may waive his right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The panel is satisfied that Mr Pedley is aware of the proceedings as he has provided a witness statement ahead of today's hearing which confirms that he will not be attending today. The panel therefore considers that Mr Pedley has waived his 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 requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There is no indication that an adjournment might result in Mr Pedley attending the hearing.

Mr Pedley has indicated that he will not be obtaining legal representation for the hearing and that, whilst grateful for the offer of special measures to enable him to attend, this would not be necessary.

The panel has had regard to the extent of the disadvantage to Mr Pedley in not being able to give his account of events, having regard to the nature of the evidence against him. However, the panel has had the benefit of representations made by Mr Pedley in his witness statement and is able to ascertain the lines of defence and evidence in relation to

mitigation which it will take into account at the relevant stage. The panel has not identified any significant gaps in the documentary evidence provided to it and should such gaps arise during the course of the hearing, the panel may take these into consideration in considering whether the hearing should be adjourned for further documents to become available and in considering whether the presenting officer has discharged the burden of proof. 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 Mr Pedley's account.

The panel has had regard to the seriousness of this case and the potential consequences for Mr Pedley. It has accepted that fairness to him is of prime importance. However, in light of the above and taking account of the inconvenience an adjournment would cause to the witnesses; the panel considers that on balance these are serious allegations and there is a public interest in this hearing proceeding within a reasonable time and therefore concludes that this hearing should continue today.

Amendment of anonymised pupil list

The panel considered and agreed the Presenting Officer's application in relation to the amendment of Pupil X's surname and the addition of Pupil 1 and Pupil 2 to the anonymised pupil list.

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 1 to 3

Section 2: Notice of Proceedings and Response – pages 4 to 21

Section 3: NCTL witness statements – pages 22 to 38

Section 4: NCTL documents – pages 39 to 349

Section 5: Teacher documents – pages 350 to 507

The panel members 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 – teacher and investigating officer at Oundle school

Witness B – teacher at Oundle school

Pupil E – pupil at Oundle school

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Mr Pedley had been employed at Oundle school since 1980 as a history teacher. It has been alleged that whilst employed as a teacher between 1 September 1980 and 21 December 2016 at Oundle School, on one or more occasions he has made comments about pupils using racist and/or derogatory language. Further, it has been alleged that in or around November 2015, whilst acting as trip leader on a visit to Vienna and Budapest, Mr Pedley breached one or more of Oundle School's Staff Code of Conduct, Pupil Alcohol Policy, Staff Misuse of Alcohol, Drugs and Prohibited Substances Policy and Educational Visits and Expeditions Policy.

Findings of fact

Our findings of fact are as follows:

The panel has found the following particulars of the allegations against you proven, for the reasons set out below:

Whilst employed as a teacher between 1 September 1980 and 21 December 2016 at Oundle School, on one or more occasions you:

- 1. Made inappropriate comments to and/or about one or more Pupils in that you made comments to the effect of:**
 - a. Saying to other members of staff “I don't want to teach blackies and chinkies in my classroom”**
 - c. Asking a [Redacted] Pupil “how do you make your money? Are your parents in the [Redacted]?”, and/or “is your dad in the [Redacted]?” and/or “does your dad do bang-bang?”**
 - d. Asking whether a [Redacted] Pupil owned [Redacted]**

- e. When referring to [Redacted] and/or [Redacted] Pupils said “put him on the next boat back to [Redacted]”, and/or “I’ll buy you a one-way ticket and put you on a train back to [Redacted]. See how you like that” and/or “has he got the ship back?”
- f. Asking a [Redacted] Pupil whether it was his father’s job to [Redacted] and/or whether he “makes money from the bang-bang” and/or “did you bring any illegal substances?”
- g. Saying to a [Redacted] Pupil, “Oh you’re from [Redacted]. Does your dad do boom boom?” and/or “your father must have come over, stealing our jobs”
- j. Swearing in class including using words such as “Shit” and/or “Crap”
- k. Calling a [Redacted] Pupil “[Redacted]”
- l. Calling a [Redacted] Pupil “[Redacted]”
- m. Calling a Pupil a “Stupid girl” and/or stating “We’re not highlighting, we’re learning. Put away your highlighter, we’re not in [Redacted]” and/or “We’re not in [Redacted] anymore, you should not be writing in your prep diary”
- n. Calling a Pupil from [Redacted] “[Redacted]”
- o. Mispronouncing a Pupil’s name as “[Redacted]”

In relation to allegations 1c, d, e, f, j, l, m, and n, the panel has taken account of (i) Mr Pedley’s admissions and comments which appear in his witness statement; (ii) the further evidence provided in the pupils’ statements and interview notes which are contained in the bundle; and (iii) the oral evidence provided by Pupil E during the hearing. Taking all of this into account, the panel is satisfied that there is a significant and strong body of evidence in addition to Mr Pedley’s admissions and therefore finds that these allegations are proven.

In relation to allegation 1a, the panel has taken into account the comments made in the witness statements of Witness B and Individual A as well as the oral evidence from Witness B provided during the hearing. The panel also considered Mr Pedley’s comments in his witness statement and notes that, whilst he denies making the statement referred to in allegation 1a, he does appear to accept that the relevant conversation took place and accepts that he was being “*deliberately provocative*” during this conversation. On balance, the panel preferred the evidence of Witness B and Individual A to that of Mr Pedley; the panel found the oral evidence of Witness B to be

credible and reliable and, on the balance of probabilities, it finds that this statement was more likely than not to have been made.

In respect of allegation 1g, the panel has considered Mr Pedley's partial admission in his witness statement where he admits that he "*made comments to this effect*" but states that he "*did not make a comment about stealing jobs*". The panel has also taken into consideration (i) Pupils I and L's account of events which refer to Mr Pedley making the comment in respect of "boom boom"; and (ii) Pupil K's account of events which refers to Mr Pedley making the comment in respect of "stealing our jobs". The panel questioned Witness A and Pupil E about the pupil interview process which took place and is satisfied that this was a sufficiently independent and confidential process such that it considers Pupils I, K and L's independent accounts of events to be credible. On this basis, allegation 1g is found proven.

As to allegation 1k, the panel has considered Mr Pedley's comment in his witness statement that he "*would sometimes give [his] pupils [sic] nicknames*" and further notes the comments made by Mr Pedley during the school's disciplinary process where he accepted that it was possible he referred to a pupil as "[Redacted]". The panel has also taken into account the oral evidence of Pupil E as well as the supporting statements made by Pupils A, B, C, D, F, H and I which, whilst slightly varying in content, are supportive of Mr Pedley calling a [Redacted] pupil varying nicknames including "[Redacted]". On balance, the panel therefore finds this allegation proven.

Finally, in respect of allegation 1o, the panel has noted Mr Pedley's admission in his witness statement that he did mispronounce this name although, the panel also notes that he denies pronouncing the name as two separate words and states that this was an innocent mispronunciation. The panel has also further considered (i) the statements of Pupils A, B, D and G; (ii) the oral evidence of Pupil E; and (iii) the comments made by the Headteacher during the disciplinary process at the school that she was satisfied that Mr Pedley had deliberately mispronounced this pupil's name to give it a sexual connotation. Taking all of this into account, the panel is satisfied that, on the balance of probabilities, this allegation is proven.

2. One or more of your comments, as may be found proven at 1 above, amounted to:

- a. racist language;**
- b. language associated with negative racial and/or cultural stereotypes;**
- c. making derogatory and/or disparaging remarks about pupils.**

The panel has found this allegation proven.

The panel has taken account of Mr Pedley's acknowledgment in his witness statement that his language could be associated with negative racial and/or cultural stereotypes. The panel also further considers that the comments made in allegations 1c, f and g, whilst not necessarily demonstrative of negative racial stereotypes, are clear examples of language associated with negative cultural stereotypes.

Mr Pedley denies that he made disparaging or derogatory remarks about pupils. However, the panel considers that comments such as those made in allegations 1l and 1o are clearly derogatory and disparaging and, indeed, the panel further notes that some pupils have reported being upset and embarrassed by Mr Pedley's remarks.

The panel considers the language used in allegation 1a to be a very clear example of the use of racist language. The panel's view is that the terms referred to in allegation 1a are racist and, further, the expression that Mr Pedley would not want such individuals in his classroom is derogatory and disparaging. The panel has also considered the views expressed by Pupil E in his oral evidence, as well as those contained within the additional pupil statements included within the bundle and notes that some of these pupils, to whom the comments were directed, state that they considered Mr Pedley's comments to be racist albeit that not every pupil took offence and some found it to be a misguided attempt at classroom humour.

3. In or around November 2015, whilst acting as trip leader for a visit to Vienna and Budapest, you breached one or more of Oundle School's Staff Code of Conduct, Pupil Alcohol Policy, Staff Misuse of Alcohol, Drugs and Prohibited Substances Policy and Educational Visits and Expeditions Policy by:

- a. consuming alcohol whilst on duty and in the presence of Pupils**
- b. purchasing alcohol, specifically a [Redacted], for an underage Pupil without a substantial meal**
- e. failing to exercise your duty of care towards pupils and taking all reasonable steps to ensure the safety and wellbeing of Pupils by:**
 - i. allowing/permitting Pupils to consume excessive alcohol;**
 - ii. consuming excessive alcohol yourself whilst responsible for Pupil's welfare**

The panel considers these allegations to be proven. In relation to allegation 3a, the panel has taken into account Mr Pedley's acknowledgement in his witness statement and the oral evidence of Witness B. The panel considers this to be a clear breach of the school's "Staff misuse of alcohol, drugs and prohibited substances policy" (December 2011) which states at paragraph 5 that "*staff in roles that may require emergency response as part of their day to day duties, for example...nominated staff on School trips*" is considered to be a high risk role and one in which staff "*should not be under the influence of any alcohol*".

The panel also considers that this is a breach of the school's "Staff code of conduct" which states that staff must not "*be under the influence of alcohol while teaching or on duty*".

In respect of allegation 3b, the panel notes that Mr Pedley admits that he purchased a [Redacted] for an underage pupil. As to whether this was purchased in the absence of a substantial meal, the panel notes that Mr Pedley's position on this has changed a number of times. As referred to above, the panel considered Witness B to be an honest and reliable witness and, in this respect, the panel prefers her oral evidence that, whilst she did not see the pupil with the [Redacted], she can confirm that no "substantial" meals were available during the flight. The panel therefore considers that Mr Pedley did purchase a [Redacted] for an underage pupil without a substantial meal and notes that this is in breach of the school's "Alcohol policy" which states that "*In general, alcohol may only be served to Sixth Formers...with a substantial meal...A substantial meal is defined as one which is consumed with a knife and fork while seated at a table.*" Taking all of this into account, on balance, the panel considers that this allegation is proven.

In relation to allegation 3e(i), the panel has taken account of the evidence provided by Mr Pedley and Witness B that Mr Pedley read out the school's alcohol policy to the pupils several times during the trip. The panel appreciates that it can be difficult to closely monitor pupils' alcohol intake during an evening meal and that all staff members on the trip had a duty of care. However, the panel's view is that there is no evidence before it that Mr Pedley, as trip leader, took sufficiently robust steps to prevent some pupils consuming excessive alcohol once it became apparent that they were already intoxicated, which in two instances led to pupils becoming unwell. Mr Pedley owed the pupils a duty of care and ought to have been very carefully monitoring the pupils' alcohol intake. On this basis, the panel considers that Mr Pedley is in breach of the school's "Alcohol policy" which states that "*allowing pupils to drink too much alcohol...may be classed as a serious breach in a duty of care to a pupil*". The panel therefore considers this allegation to be proven.

Finally, in respect of allegation 3e(ii), the panel has considered Witness B's account that at times on the trip and, as a result of what she considered to be excessive alcohol, Mr Pedley's speech was slurred and he was swaying when he walked. The panel further notes the comments made in pupil 1's statement which suggests that Mr Pedley's behaviour was consistent with the consumption of excessive alcohol. Whilst Mr Pedley denies this allegation, the panel notes his comments made during the school's investigation namely that on the morning of the return flight whilst acting as trip leader: (i) he consumed a small bottle of wine whilst queuing in airport security; (ii) he had a "good beer" at the airport; and (iii) he drank wine on the flight. In light of the provisions of the school's "Staff misuse of alcohol, drugs and prohibited substances policy" and "Code of Conduct" referred to in relation to allegation 3a above, the panel considers that Mr Pedley was in breach of these policies. On balance, the panel therefore finds this allegation proven.

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

Whilst employed as a teacher between 1 September 1980 and 21 December 2016 at Oundle School, on one or more occasions you:

- 1. Made inappropriate comments to and/or about one or more Pupils in that you made comments to the effect of:**
 - b. Saying to a Pupil that in [Redacted], people sit on the floor and the Pupil was lucky to have chairs to sit on in this country**
 - h. Saying to a [Redacted] Pupil “that’s pretty good for a foreigner”**
 - i. Asking a [Redacted] Pupil if he was a “[Redacted]”**
 - p. Calling a Pupil a “Witch”**
 - q. Referring to Pupils as “Hindus”**

In relation to allegation 1b, the panel is persuaded by Mr Pedley’s consistent denial of this allegation. The panel also notes that it has been unable to test the credibility of pupil A’s evidence as she did not appear before the panel to give oral evidence and consider that this was not sufficiently investigated during the school process in order for it to make a finding. The panel therefore finds this allegation not proven.

As to allegation 1h, the panel notes that Mr Pedley denies this allegation and that, during his oral evidence, pupil E stated that he cannot remember this comment being made. The panel therefore finds this allegation not proven.

In relation to allegation 1i, the panel notes both Mr Pedley’s and a number of student comments that he asked a student whether he was a “[Redacted]”. However, the panel has seen no evidence as to whether the student in question was [Redacted] and therefore, on balance, finds this allegation not proven.

As to allegation 1p, the panel notes Mr Pedley’s denial and that there is no evidence in support of this allegation. The panel therefore finds this allegation not proven.

Finally, in relation to allegation 1q, the panel has considered Mr Pedley’s denial, that there is no direct pupil evidence and that teachers’ statements in relation to this allegation contain conflicting information. On balance, the panel therefore finds this allegation not proven.

- 3. In or around November 2015, whilst acting as trip leader for a visit to Vienna and Budapest, you breached one or more of Oundle School’s Staff Code of**

Conduct, Pupil Alcohol Policy, Staff Misuse of Alcohol, Drugs and Prohibited Substances Policy and Educational Visits and Expeditions Policy by:

c. smoking a cigarette in the presence of Pupils

d. permitting Pupils to take a comfort break which you knew to be a request to smoke

As to allegation 3c, the panel has considered Mr Pedley's comments that he did smoke on the trip but that he believed the children were in bed and that it was not in the presence of pupils. The panel notes that there is no direct pupil evidence on this point and, on the balance of probabilities, therefore finds this allegation not proven.

Finally, in relation to allegation 3d, Mr Pedley denies this allegation. The panel has considered Witness B and Individual A's evidence on this point and the panel considers this to be based on assumption rather than either Witness B or Individual A directly witnessing this. The panel has also taken into account that there is no direct pupil evidence on this point and, on balance, does not consider there to be sufficient evidence in support of this allegation. The panel finds this allegation not proven.

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

Having found a number of the allegations proven, 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 is satisfied that the conduct of Mr Pedley in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Pedley is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
 - having regard for the need to safeguard pupils' wellbeing, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others; and
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different

faiths and beliefs. In particular the panel considers that Mr Pedley's conduct does not demonstrate mutual respect.

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel is satisfied that the conduct of Mr Pedley amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Pedley's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice but considers that none of these offences are relevant.

Accordingly, the panel is satisfied that Mr Pedley is guilty of unacceptable professional conduct.

The panel has also taken into account 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 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.

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

The panel therefore finds that Mr Pedley's actions constitute conduct that may bring the profession into disrepute.

In summary, the panel finds that Mr Pedley's conduct amounts 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 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 a 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; and the interest of retaining the teacher in the profession.

In light of the panel's findings against Mr Pedley regarding these specific allegations, which involved a finding that he made inappropriate comments to pupils including the use of racist language and that he failed in his duty of care whilst acting as trip leader on a school trip to Vienna and Budapest, there is a public interest consideration in respect of the maintenance of public confidence in the profession and upholding proper standards of conduct. The panel considers that the public's view of the profession may be undermined by Mr Pedley's conduct and, in particular, his conduct whilst on the school trip in question. Further, there is a public interest consideration in respect of the protection of pupils as Mr Pedley's conduct, in the specific matters before the panel, does not demonstrate respect for pupils.

However, the panel considered that there was also a strong public interest consideration in retaining Mr Pedley in the profession. No doubt has been cast upon his abilities as an educator. In this respect, the panel took account of the overwhelming body of statements and letters in support of Mr Pedley included within the bundle. These statements run to over 50 pages and have been made by a wide range of individuals including colleagues, parents, former and current pupils from a range of ethnicities and backgrounds. The panel considers that this evidence very clearly demonstrates that Mr Pedley is an effective, dedicated and well respected teacher who has positively influenced the lives of pupils in many areas of school life throughout his 37 year career at the school.

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

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 Pedley. 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 wellbeing of pupils, and particularly where there is a continuing risk;
- actions or behaviours that undermine fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs; or that promote political or religious extremism. In particular, the panel notes that Mr Pedley's conduct failed to demonstrate mutual respect; and

- violation of the rights of pupils.

Even though there were behaviours that could point to the appropriateness of a prohibition order, the panel went on to consider whether or not there were sufficient mitigating factors to militate against the appropriateness and proportionality of the imposition of a prohibition order, particularly taking into account the nature of the behaviour. The panel is persuaded by Mr Pedley's evidence that he did not understand that his language could be considered as racist. The panel's view is that whilst Mr Pedley's conduct was entirely misjudged and inappropriate, it accepts Mr Pedley's position that it was not malicious or intended to harm but that it was outdated.

Further, the panel considers that Mr Pedley has demonstrated insight into his conduct and he acknowledges that his language could be associated with negative racial and/or cultural stereotypes and that he had a lack of awareness as to how his comments could potentially be perceived. Mr Pedley has also shown remorse for his conduct and the panel accepts his reflection that (i) he never intended to offend or upset his pupils and, if this is the case, that he regrets this enormously; and (ii) whilst he has used racist language, he is not a racist and "*abhors racism*". This is further supported by the many character references provided to the panel including correspondence from guardians for overseas pupils. The panel has also taken into account Mr Pedley's comments that he is seeking training to help him develop his understanding to ensure that his language is never offensive in the future. The panel notes that Mr Pedley has demonstrated prior commitment to relevant training when it has been made available by the school.

The panel has seen evidence that Mr Pedley was previously subject to disciplinary warnings in respect of his supervision of school trips prior to the one in question during this hearing. However, the panel notes that, after the trip relevant to this hearing, the school's head indicated that she was satisfied that Mr Pedley's "*attitude has shifted sufficiently for me to be able to allow you back on trips.*" The panel considers that this demonstrates Mr Pedley's ability and capacity to change and learn from mistakes. The panel has considered the fact that Mr Pedley appears to otherwise have had an unblemished professional record which spans over 30 years.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel is sufficient.

The panel is of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order is a proportionate and appropriate response. In light of the apparent insight and willingness to learn from his mistakes demonstrated by Mr Pedley and the overwhelming evidence in support of his ability as an excellent teacher, the panel has determined that a recommendation for a prohibition order will not be appropriate in this case and its effect would be unnecessarily punitive. The panel considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to Mr Pedley and to all members of the teaching profession as to

the standards of behaviour that are not acceptable. The panel considers that this meets the public interest requirement of declaring proper standards of 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 no sanction.

In considering this case, I have also 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 a number of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Where the panel has not found facts proven, I have put these allegations from my mind. The panel has made a recommendation to the Secretary of State that Mr Pedley should not be the subject of a prohibition order.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
 - having regard for the need to safeguard pupils' wellbeing, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others; and
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs. In particular the panel considers that Mr Pedley's conduct does not demonstrate mutual respect.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

The panel finds that the conduct, where found proven, of Mr Pedley fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would

achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether 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 are themselves sufficient. I have considered therefore whether or not prohibiting Mr Pedley, 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 found Mr Pedley, “made inappropriate comments to pupils including the use of racist language and that he failed in his duty of care whilst acting as trip leader on a school trip to Vienna and Budapest”. A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel’s comments on insight and remorse which the panel says Mr Pedley, “demonstrated insight into his conduct and he acknowledges that his language could be associated with negative racial and/or cultural stereotypes and that he had a lack of awareness as to how his comments could potentially be perceived.” The panel has also commented that Mr Pedley showed, “remorse for his conduct”. The panel went on to accept Mr Pedley’s reflection that, “(i) he never intended to offend or upset his pupils and, if this is the case, that he regrets this enormously; and (ii) whilst he has used racist language, he is not a racist and “*abhors racism*”. The panel went on to say, “In light of the apparent insight and willingness to learn from his mistakes demonstrated by Mr Pedley and the overwhelming evidence in support of his ability as an excellent teacher, the panel has determined that a recommendation for a prohibition order will not be appropriate in this case and its effect would be unnecessarily punitive.”

I place different weight on the insight and remorse shown in comparison with the weight that I am attributing to the seriousness of the conduct. This is because of the serious nature of both the language used, the frequency of this misconduct and the seriousness of the behaviour demonstrated on the school trip.

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 public’s view of the profession may be undermined by Mr Pedley’s conduct and, in particular, his conduct whilst on the school trip in question.”

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 Pedley himself. The panel say there was an, “overwhelming body of statements and letters in support of Mr Pedley”. The panel notes it saw, “statements run to over 50 pages and have been made by a wide range of individuals including colleagues, parents, former and current pupils from a range of ethnicities and backgrounds.” The panel considered that this evidence, “very clearly demonstrates that Mr Pedley is an effective, dedicated and well respected teacher who has positively influenced the lives of pupils in many areas of school life throughout his 37 year career at the school.”

A prohibition order would prevent Mr Pedley from continuing in the teaching profession. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force. I have not placed as much weight on this as on the factors which suggest that prohibition is appropriate, and because the behaviour is so serious.

The panel has said it is of the view that, “applying the standard of the ordinary intelligent citizen recommending no prohibition order is a proportionate and appropriate response.

I believe the panel has, in carrying out the balancing exercise between the public interest considerations both in favour of and against prohibition as well as the interests of Mr Pedley, placed too much weight on the interests and qualities of Mr Pedley as a teacher. I do not feel that the panel has given adequate weight to the potential damage to the public perception of the teaching profession if behaviours such as those found proven are not dealt with appropriately and proportionately. The panel considered, “the public’s view of the profession may be undermined by Mr Pedley’s conduct and, in particular, his conduct whilst on the school trip in question. Further, there is a public interest consideration in respect of the protection of pupils as Mr Pedley’s conduct, in the specific matters before the panel, does not demonstrate respect for pupils.” In light of the weight that I have apportioned to the insight and remorse and the lesser weight I have apportioned to his contribution as a teacher, I believe that a prohibition order is appropriate.

I have therefore concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel did not recommend prohibition and therefore did not give a view on this point.

The legislation sets out that unless behaviours are present as outlined in the Advice where a review period is not considered appropriate, a review period of a minimum of two years should be considered. I am of the view a two year review period reflects the seriousness of the findings in this case and is a proportionate period to achieve the aim of maintaining public confidence in the profession.

This means that Mr Philip Pedley 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 20 February 2020, 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 Pedley remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'Dandy', with a stylized flourish at the end.

Decision maker: Dawn Dandy

Date: 20 February 2018

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