



Teaching
Regulation
Agency

Mr Nicholas Bracken- Hunt: Professional conduct panel outcome

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

April 2019

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Professional conduct panel decision and reasons on behalf of the Secretary of State

Teacher: Mr Nicholas Bracken-Hunt

TRA reference: 16310

Date of determination: 4 April 2019

Former employer: Weston Park Primary School, London

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 1 April 2019 to 4 April 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the case of Mr Bracken-Hunt.

The panel members were Mr Martin Pilkington (lay panellist – in the chair), Mr Tony Woodward (former teacher panellist) and Ms Margaret Windsor (teacher panellist).

The legal adviser to the panel was Ms Kara O’Neill of Eversheds Sutherland (International) LLP solicitors.

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

Mr Bracken-Hunt was present and was represented by Sarah Allen of No 5 Chambers.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 16 January 2019.

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

1. Between January 2016 and February 2016 engaged in an inappropriate relationship and / or failed to maintain appropriate boundaries with Child A, in that he, on one or more occasions:
 - a) offered to give Child A a massage
 - b) massaged Child A
 - c) corresponded with Child A via text message
2. Engaged in the conduct as at 1 above without the knowledge and / or approval of Child A's parents
3. Engaged in the conduct as at 1.a. and 1.b. above without holding the necessary training or qualifications to conduct massages
4. Misused Weston Park Primary School's premises for the provision of fitness classes and / or group tutoring sessions for Muswell Hill Football Club players, by
 - a) failing to ensure that records for such use were kept

C. Preliminary applications

The teacher's representative applied to admit 1 document. The document was not served in accordance with the requirements of paragraph 4.20 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures"), and as such, the panel was required to decide whether the document should be admitted under paragraph 4.25 of the Procedures, therefore at the discretion of the panel. The panel took into account the representations from the teacher's representative and considered there were no objections raised by the presenting officer.

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case. The panel were satisfied that the document was relevant to the case as it was a witness statement of the teacher and therefore decided to allow the document to be admitted.

The presenting officer during the proceedings also applied to admit 2 documents. The panel took into account the Procedures and the representations from the presenting officer and there were no objections raised by the teacher's representative to the admission of the documents.

The panel was satisfied that the documents were relevant to the case as the first document was to replace the signature page to be appended to a witness statement contained in the bundle, and the second document was an exhibit to the Investigation Report also contained in the bundle. By reason of the above, the panel has decided to admit the documents.

The panel also considered an application from the teacher's representative to amend the Notice of Proceedings by amending allegations 1 and 4. The panel has the power to, in the interests of justice; amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

Before making an amendment, the panel was required to consider any representations by the presenting officer and by the teacher's representative, and the parties had been afforded that opportunity. The presenting officer consented to the applications on the grounds that the amends to allegation 1 helped to clarify the dates surrounding the allegation and the amends to allegation 4 were to be made to merely correct a typo.

The panel considered that the amendments proposed, being a correction of a typographical error, do not change the nature, scope or seriousness of the allegations. There was no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher. The panel therefore decided to amend the allegations as proposed.

Following closure of the case from the TRA, the teacher's representative applied to have the allegations 3 and 4 discontinued, pursuant to paragraph 4.54 of the Procedures.

The panel received advice from the legal adviser and formed their own view. The panel considered whether it was fair and appropriate to discontinue the proceedings in respect of the allegations. The panel noted that no further guidance was given in the Procedures beyond this as to how it should exercise its discretion.

However, the panel took guidance from the following tests explained by the legal adviser:

The test in the Civil Procedure Rules for strike out of a statement of case, namely that the court has the power to strike out the whole or part of a statement of case which discloses no reasonable grounds for bringing or defending a claim, or which is an abuse of the process of the court or otherwise likely to obstruct the just disposal of the proceedings.

The test in the Civil Procedure Rules that allows a court to give summary judgment against a claimant or defendant where that party has no real prospect of succeeding on his claim or defence.

The test used in criminal proceedings derived from the case of R v Galbraith as to when a judge should stop a case, namely where there is no evidence, or the evidence is so tenuous that, taken at its highest, a jury could not properly convict.

The panel had in mind that if it continued with the proceedings, the test it would have to apply in determining whether the allegations were to be found proven, would be on the balance of probabilities. The panel recognised that, at this stage, it was not required to decide if the allegations had been proven, but to decide whether the allegations met the threshold for the case to continue.

The panel decided to refuse the teacher's application for discontinuance in regards to allegations 3 and 4. The panel was of the view that this was not a case where there was no evidence to consider in regard to these particular allegations. The panel was not of the view, at this stage, that the allegations had no real prospect of being found proven, nor that the evidence was so tenuous that the allegations could not be found proven. The panel was minded that there may be further evidence that could be adduced through oral evidence of the teacher. The panel therefore did not consider that it was fair and appropriate to discontinue the allegations. The panel reminded the parties that the teacher did, however, have the ability to renew this application for discontinuance at any stage of the proceedings.

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 3

Section 2: Notice of Proceedings and Response – pages 5 to 17

Section 3: Teaching Regulation Agency witness statements – pages 19 to 33

Section 4: Teaching Regulation Agency documents – pages 35 to 1079

Section 5: Teacher documents – pages 1081 to 1304

In addition, the panel agreed to accept the following documents:

Witness statement of teacher- pages 1305 to 1322

Exhibit to investigation Report- pages 1323 to 1324

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

Witnesses

The panel heard oral evidence from Child A and an independent investigator commissioned by the School, called by the presenting officer.

The panel also heard oral evidence from Mr Bracken-Hunt called by the teacher's representative.

E. Decision and reasons

The panel announced its decision and reasons as follows:

Mr Bracken-Hunt had been employed at Weston Park Primary School (the "School") as the headteacher since 1 September 2011. It is alleged that in his separate capacity as chairman and club manager of Muswell Hill Football Club, Mr Bracken-Hunt texted Child A without his parents' knowledge and gave Child A a massage on school premises.

Findings of fact

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

- 1. Between January 2016 and February 2016 engaged in an inappropriate relationship and / or failed to maintain appropriate boundaries with Child A, in that you, on one or more occasions:**
 - a) offered to give Child A a massage**
 - b) massaged Child A**
 - c) corresponded with Child A via text message**

The panel considered all of the evidence and, in particular, noted that it was accepted by the presenting officer and Mr Bracken-Hunt that Child A was offered a massage. It was further accepted that Mr Bracken-Hunt had met with Child A at the School premises after school hours where a pre-planned meeting took place in which a massage was given.

The panel went on to consider whether appropriate boundaries were maintained in that Child A had been invited to the School for a private one-to-one session when a massage had taken place. The panel considered evidence from Mr Bracken-Hunt that whilst a massage took place in Mr Bracken-Hunt's office, the door of the office remained open during the one-to-one session and described that other members of staff were on site

during the meeting. However, the panel would not have expected Mr Bracken-Hunt, either in his capacity as headteacher, or as football manager, to invite a 16 year old to be massaged in the circumstances that were described to the panel.

The panel went on to consider the massage itself. Child A explained that the session involved stretches and a massage which involved Mr Bracken-Hunt using skin-on-skin contact. Child A described the massage as being in the form of tiger balm being applied in 'circular movements with the thumbs and hands' on the lower back area. He further said this was a 'normal' massage and confirmed that Child A lifted his t-shirt in order to do this whilst he was lying face down on a mat.

The panel examined both the accounts of Child A and Mr Bracken-Hunt in relation to the massage. The panel noted that there were some inconsistencies in the two accounts of what occurred. The panel also considered oral evidence given by an independent investigator who produced a report, which included his findings of fact. Whilst the panel found this witness to be credible, it viewed his evidence with considerable caution due to a number of factors; including expressions of opinion and the fact, that Child A was never interviewed by the investigator. This latter point caused the panel concern. On the balance of probabilities, the panel preferred Child A's account of the events.

The panel considered whether it was appropriate for a teacher who is also a football manager to offer and conduct a massage on a 16 year old. The panel noted that there were no allegations being made by the presenting officer in relation to breaching school policies. The panel examined the School's code of conduct, which states 'your conduct outside of work must not conflict with your official conduct at work'. Bearing in mind that Mr Bracken-Hunt had ten years' experience as a teacher, latterly as a headteacher, it would have reasonably expected that he would have known that his actions in this regard, in offering and conducting a massage on a 16 year old, failed to maintain appropriate boundaries. It found this evidence, as well as the description of the massage given by Child A, indicative of an inappropriate relationship.

The panel considered the oral evidence of both Child A and Mr Bracken-Hunt in regard to the massage very carefully. The panel wished to make it clear that it found that Mr Bracken-Hunt's sole intention was to assist Child A with his injury.

The panel then assessed the correspondence between Mr Bracken-Hunt and Child A via text message. Mr Bracken-Hunt admitted that there was a series of private text exchanges between himself and Child A as exhibited in the bundle. The panel, having examined all the evidence, considered that the text messages were of a personal nature. It noted that Mr Bracken-Hunt stated in his evidence that there was context to the text messages. He also accepted that 'there was a blurring of boundaries between Child A and myself'.

Furthermore, the panel considered the Football Association Guidelines, which recommend that texting 'is not used as the primary method of communication between

adults and young people in football.’ The guidelines also warned against engaging ‘in any personal communications, ‘banter’ or comments’. Whilst the panel was mindful that such guidelines were not made available to Mr Bracken-Hunt by the welfare officer of Muswell Hill Football Club, it considered that Mr Bracken-Hunt, as an experienced teacher, ought to have been aware that he should have maintained an appropriate relationship with Child A.

The panel considered the content of the text exchanges in the bundle. The panel found that there were a number of instances where Mr Bracken-Hunt sent inappropriate text messages. These went beyond what would have been expected between a teacher and a 16 year old, even in the context of contacts between a football manager and a player. The panel noted there were a number of text messages that indicated repeated contact, as demonstrated by Mr Bracken-Hunt messaging ‘hello’ and then ‘oi oi’ when Child A had not responded. The panel also noted that the timing of some of the text messages (e.g. 3am), with some being sent when Mr Bracken-Hunt was on holiday, would indicate an inappropriate relationship.

Moreover, the panel determined that the content of some of the text messages failed to maintain appropriate boundaries. There were references to Child A’s appearance and two of the messages were signed off with an ‘x’ mark. The panel also remarked there was a one-to-one invitation for a ‘pizza and a chat’ initiated by Mr Bracken-Hunt to Child A which it would not expect from a teacher to a 16 year old. The panel also examined a section of text messages, which made references to an anecdote related to ‘naked swimming’.

Mr Bracken-Hunt described all these communications as ‘banter’ and maintained there were ‘no improper motives’ behind the text exchange. The panel found that these text communications were inappropriate.

The panel noted evidence that Mr Bracken-Hunt had close ties to the community, specifically the players in the football team having known them and their families for a number of years. The panel, however, noted that Mr Bracken-Hunt had only known Child A since May 2015. Regardless of how long Mr Bracken-Hunt had known Child A, the panel found that this level of informality was not acceptable in terms of the text messaging and was therefore indicative of an inappropriate relationship.

Mr Bracken-Hunt gave oral evidence that his role as manager was separate from his role as headteacher. However, the panel rejected this. There was an ongoing duty to uphold his professional integrity and to maintain appropriate relationships with all young people. The standards for teachers are explicit in this regard: teachers must ‘...at all times [observe] proper boundaries appropriate to a teacher’s professional position’.

On the balance of probabilities, the panel found allegation 1 proven.

2. Engaged in the conduct as at 1 above without the knowledge and / or

approval of Child A's parents

Mr Bracken-Hunt in his written statement accepted that he did not get 'formal permission directly from either of the parents'. On this basis, the allegation has been admitted and therefore found proven.

3. Engaged in the conduct as at 1.a. and 1.b. above without holding the necessary training or qualifications to conduct massages

The panel considered all of the evidence and took into account in Mr Bracken-Hunt's written statement that he never claimed that he trained in physiotherapy or had a professional qualification. However, the panel heard oral evidence from Child A that it was his understanding that Mr Bracken-Hunt had some form of qualifications in this area prior to accepting the massage. The panel noted that Mr Bracken-Hunt presented in oral evidence that he had experience of this area. He appeared to the panel to be knowledgeable and convincing and, therefore, there may have been an assumption on Child A's part that he was trained in some aspects of physiotherapy.

The panel considered hearsay evidence from two statements from qualified massage and sports therapists regarding the use of massage and stretches in sport. The panel considered evidence that 'it is common for staff to offer additional and at times one-to-one guidance and support to students in respect of maintenance/recovery exercises'. However, the panel were mindful that the two individuals who provided statements did not know the specifics of the case. The statements did not address the type of pre-planned massage, which is the subject of the allegation. The panel considered that it may be reasonable for a football manager to make physical contact with a player such as in an emergency situation, or at pitch side. This was different. It was a pre-planned event. The panel would, on the balance of probabilities, expect the person carrying out a massage in these circumstances, to have the necessary training and/or qualifications.

The panel therefore found this allegation proven.

4. Misused Weston Park Primary School's premises for the provision of fitness classes and / or group tutoring sessions for Muswell Hill Football Club players, by:

a) failing to ensure that records for such use were kept

The panel considered all of the evidence and noted that it was accepted by Mr Bracken-Hunt that no records were kept. The evidence given by Mr Bracken-Hunt indicated that there were no records kept. No policies were in place that required him to do this and, therefore, he was able to use the premises for the provision of fitness classes and/or group tutoring. Mr Bracken-Hunt said that it was 'common practice' to use the School's premises in this way. Mr Bracken-Hunt also put forward evidence that it had always been

his understanding that ‘the lettings of the building was at my discretion’ and that the lettings policy by the School did not specifically reference or detail discretionary staff use.

The panel noted that they would have expected to see some evidence in the form of permission from the board of governors as to the use of the premises by Mr Bracken-Hunt as within the policy it states ‘the governing body will retain an absolute discretion to determine what is an unsuitable let, in all instances’. The policy also goes on to state that ‘the headteacher is authorised to make day-to-day decisions on behalf of the governing body and may seek advice...about any aspects of implementing this policy’.

The panel considered that there had been misuse of the building as Mr Bracken-Hunt failed to follow procedures by keeping records, and indicated in evidence that the governors were never formally told about the football team using the premises for the purpose of training. Moreover the panel remarked that misuse by failing to keep records posed risks to safeguarding, health and safety and lack of signing in and out the building, or indeed keeping any record of who was letting the premises.

Mr Bracken-Hunt gave oral evidence that there was no misuse, as adequate insurance was in place for the premises and it was not necessary to ensure records were kept in terms of signing out, as he would have been on site and therefore acting as a responsible adult. The panel was of the view that Mr Bracken-Hunt’s evidence demonstrated a lack of responsibility in terms of record keeping. Whilst the panel found his actions in running a football club on site were well meaning and not for any financial gain, it showed naivety in terms of adequate safeguarding and health and safety issues, which demonstrated misuse of the premises.

On the balance of probabilities, the panel found this allegation proven.

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

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

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

The panel was satisfied that the conduct of Mr Bracken-Hunt in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Bracken-Hunt 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

- o all times observing proper boundaries appropriate to a teacher's professional position;
- o having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach;
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Bracken-Hunt in relation to allegations 1, 2 and 3 amounted to misconduct of a serious nature, which fell significantly short of the standards expected of the profession.

The panel was of the view that the conduct of Mr Bracken-Hunt in relation to the facts found proven at allegation 4 did involve breaches of the Teachers' Standards. However, the panel's view was that whilst this was misconduct on Mr Bracken-Hunt's part, it was not: '... misconduct of a serious nature falling significantly short of the standard of behaviour expected of a teacher'. The panel considered that Mr Bracken-Hunt's practice was poor and this opened him to criticism with regard to health and safety and safeguarding concerns. However, the panel finds such conduct does not in and of itself meet the appropriate threshold to be considered as unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel has also considered whether Mr Bracken-Hunt's 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.

Accordingly, the panel is satisfied that Mr Bracken-Hunt is guilty of unacceptable professional conduct.

The panel noted that allegation 1.c. took place outside of the education setting. The allegation involved text messaging between Mr Bracken-Hunt and Child A who was not a pupil at the School. At the time, Mr Bracken-Hunt was acting in his capacity as a football manager and had communicated via text message with a player (Child A) who was 16 years old.

The panel has 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.

Sending inappropriate text messages and failing to maintain appropriate boundaries with Child A could, in the panel's view, have a negative impact on Mr Bracken-Hunt's status as a teacher. It could damage the public's perception of him and therefore bring the profession into disrepute.

Accordingly, the panel is satisfied that Mr Bracken-Hunt is guilty of conduct that may bring the profession into disrepute.

Having found all allegations proved on the facts, the panel further found that Mr Bracken-Hunt's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute in respect of allegations 1, 2 and 3.

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 maintenance of public confidence in the profession, declaring and upholding proper standards of conduct and the public interest of retaining the teacher in the profession.

The panel's findings against Mr Bracken-Hunt involved an inappropriate relationship between himself and Child A and failing to maintain appropriate boundaries by offering and giving a massage as well as exchanging inappropriate text messages with Child A. The panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Bracken-Hunt were not treated with the utmost seriousness when regulating the conduct of the profession.

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

With that being said, the panel considered that there was a strong public interest consideration in retaining Mr Bracken-Hunt in the profession. Mr Bracken-Hunt had worked as a teacher for 10 years and had an unblemished record. He also gave freely of

his time, for no financial gain, to support the learning of young people in the community through group tutoring and preparing them for public examinations such as GCSE's.

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 Bracken-Hunt.

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 Bracken-Hunt. 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, the single element that is relevant in this case is:

- serious departure from the personal and professional conduct elements of the Teachers' Standards

Even though there were behaviours that would 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 a prohibition order being appropriate and a proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case. The panel found that whilst the conduct was inappropriate there was no direct harm to Child A. Mr Bracken-Hunt's motivation for giving the massage was solely to assist Child A with regard to the injury to his lower back.

With regard to the text messages, the panel heard extensive evidence as to the context in which those messages were sent and received. Whilst finding that these messages were inappropriate and that the boundaries were blurred, the panel found that Mr Bracken-Hunt's intention was to provide emotional support to Child A.

The panel noted the admission by Mr Bracken-Hunt that he had failed to inform and obtain permission from the parents in regard to the arrangements that had been made with Child A for a massage and also for the text messaging. The teacher reflected on his actions and showed a clear understanding of his inappropriate actions. He demonstrated insight and told the panel that he would not behave in such a way in the future.

Likewise, with regard to his lack of necessary training and qualifications, Mr Bracken-Hunt recognised that in giving a massage of this nature, training or qualifications would be required. His oral evidence demonstrated insight and he told the panel that he would not behave in such a way in the future.

The teacher had a previously good history. Mr Bracken-Hunt recognised that he made serious misjudgements. However, his intentions were not to cause harm. He gave clear evidence to the panel that he would not engage in this form of conduct in the future. The panel accepted this.

Mr Bracken-Hunt had 17 strong testimonials from a range of individuals including parents, colleagues and members of the community. One parent commented as follows: 'Nic was much more than a great football coach, he was also an exceptional role-model for my son and was much respected by his team and parents'. Another parent said the following: 'Nic is extraordinary. Not only does he run an outstanding primary school, he also takes the time to run group revision classes for the team to help ease the pressure on the players in this vital GCSE year'. The panel found that the references showed him to be a valued member of, and a great asset to, the school community. He enhanced the educational life chances of children in the area.

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. The panel discerned no improper motive; rather it recognised kind intent towards Child A. Mr Bracken-Hunt demonstrated his remorse and reflection in oral evidence and in his written statement, assuring the panel that such actions would not be repeated. In light of the mitigating factors that were present in this case, the panel has determined that a recommendation for a prohibition order will not be appropriate.

The panel considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to Mr Bracken-Hunt, as to the standards of behaviour that are not acceptable and 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 sanction.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the factual allegations proven and found that three of those proven factual allegations amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found one of the allegations does not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put that matter entirely from my mind.

The panel has made a recommendation to the Secretary of State that the findings of unacceptable professional conduct and conduct likely to bring the profession into

disrepute should be published and that such an action is proportionate and in the public interest.

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

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

The panel was therefore "satisfied that the conduct of Mr Bracken-Hunt in relation to allegations 1, 2 and 3 amounted to misconduct of a serious nature, which 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 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 Bracken-Hunt, and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has not made any specific observations on this matter. I have taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The teacher reflected on his actions and showed a clear understanding of his inappropriate actions. He demonstrated insight and told the panel that he would not behave in such a way in the future."

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that it 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.

Sending inappropriate text messages and failing to maintain appropriate boundaries with Child A could, in the panel’s view, have a negative impact on Mr Bracken-Hunt’s status as a teacher. It could damage the public’s perception of him and therefore bring the profession into disrepute.”

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

I have considered whether the publication of a finding of unacceptable professional conduct, 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 Bracken-Hunt himself. The panel say, “Mr Bracken-Hunt had 17 strong testimonials from a range of individuals including parents, colleagues and members of the community.”

A prohibition order would prevent Mr Bracken-Hunt from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

For the reasons set out by the panel, I have concluded that a prohibition order is not proportionate and not in the public interest in order to achieve the intended aims of a prohibition order.

In this case a published decision is proportionate. As the panel say, “ The panel discerned no improper motive; rather it recognised kind intent towards Child A. Mr Bracken-Hunt demonstrated his remorse and reflection in oral evidence and in his written statement, assuring the panel that such actions would not be repeated. In light of the mitigating factors that were present in this case, the panel has determined that a recommendation for a prohibition order will not be appropriate.”

The panel also say that it, “considers that the publication of the adverse findings it has made is sufficient to send an appropriate message to Mr Bracken-Hunt, as to the standards of behaviour that are not acceptable and meets the public interest requirement of declaring proper standards of the profession.”

Handwritten signature of Alan Meyrick in grey ink.

Decision maker: Alan Meyrick

Date: 9 April 2019

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