



Teaching
Regulation
Agency

Mr Jonathan Philip Ullmer: Professional conduct panel outcome

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

November 2019

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

Teacher: Mr Jonathan Philip Ullmer

Teacher ref number: 8375828

Teacher date of birth: 1 October 1960

TRA reference: 0017848

Date of determination: 22 November 2019

Former employer: Cecil Jones High School, Southend-on-Sea, Essex (the "School")

A. Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened from 18 to 22 November 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Jonathan Philip Ullmer.

The panel members were Ms Jean Carter (lay panellist – in the chair), Mrs Kathy Thomson (teacher panellist) and Mr Paul Hawkins (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.

The teacher was present and was represented by Mr Andrew Faux of Counsel.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 23 September 2019.

It was alleged that Mr Jonathan Philip Ullmer was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher at Cecil Jones High School (the "School") between 1989 and 2002:

1. You failed to maintain appropriate professional boundaries and/or developed an inappropriate relationship with Pupil A between and/or around 1989 and 1995 whilst Pupil A was a pupil at the school, including by;
 - a. providing Pupil A with special privileges, such as by giving Pupil A keys to access your office and/or permitting him to eat his lunch in your office and/or having access to a telephone;
 - b. giving lifts to Pupil A and/or permitting Pupil A to drive your car;
 - c. making inappropriate comments to Pupil A, such as by;
 - i. telling Pupil A that once he turned 16 you would become better friends and/or would spend more time outside of school;
 - ii. telling Pupil A to keep visits to your home accommodation quiet and/or not to tell other teachers;
 - iii. suggesting that by sharing information of a sexual nature that you didn't share with others, it would build a deeper friendship;
 - iv. accusing Pupil A of being a bad friend as he was not prioritising you;
 - v. questioning Pupil A about his personal relationships and/or sexual experiences;
 - vi. telling Pupil A about your own personal relationships and/or sexual experiences;
 - d. spending time with Pupil A outside of the School's premises, including by;
 - i. allowing Pupil A to go to your home accommodation and/or to stay overnight;
 - ii. taking and/or going with Pupil A to restaurants/pubs and/or the cinema;

- iii. going to Kent with Pupil A and/or staying overnight in Kent with Pupil A;
 - iv. taking Pupil A to your parents' accommodation and/or staying with Pupil A overnight at your parents' accommodation;
 - e. providing Pupil A with food and/or alcoholic drinks;
 - f. providing Pupil A with the keys to your home accommodation and/or allowing Pupil A to stay with his girlfriend overnight at your home accommodation;
 - g. staying in the same bed with Pupil A;
 - h. placing your arm around Pupil A;
 - i. play fighting with Pupil A;
 - j. hitting Pupil A's bottom with a shoe horn;
 - k. allowing Pupil A to hit your bottom with a shoe horn and/or exposing your genitals when Pupil A hit your bottom with a shoe horn;
 - l. discussing masturbation with Pupil A;
 - m. engaging in sexual activity in the presence of Pupil A;
 - n. engaging in sexual activity with Pupil A;
2. Your conduct as may be found proven at 1 above was sexually motivated.

Mr Ullmer did not admit the facts or give an admission of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in respect of all of the allegations.

C. Preliminary applications

The presenting officer applied to admit two documents. Those documents were not served in accordance with the requirements of paragraph 4.20 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures"). As such, the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures, at the discretion of the panel. The panel took into account the representations of the presenting officer and noted that the teacher's representative did not object to the application.

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 was satisfied that the documents were relevant to the case as one document contained the settlement agreement which was mentioned in the teacher's witness statement, and the second document contained a signed version of a TRA witness statement. By reason of the above, the panel decided to admit each of the documents and paginated the documents into the bundle.

During the proceedings the teacher's representative also applied to submit two documents. The panel noted that one of these documents was only produced during the course of the panel's questioning of the witness. The panel took into account the Procedures and the representations from the presenting officer and there were no objections raised by the presenting officer to the admission of the documents.

The panel was satisfied that the documents were relevant to the case as the first document was a letter containing medical evidence relevant to the teacher, and the second document was a letter containing medical evidence relevant to one of the teacher's witnesses. By reason of the above, the panel decided to admit the documents and the documents were paginated into the bundle.

A further application was made by the presenting officer to amend the Notice of Proceedings by re-numbering the allegations to separate out allegation 1d into four parts rather than two. The panel had 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.

1. Before making an amendment, the panel was required to consider any representations by the presenting officer and by the teacher, and the parties were afforded that opportunity. The teacher's representative consented to the application on the grounds that it was a typographical error and did not change the nature of the allegations.
2. The panel considered that the amendment proposed, being a correction of a typographical error, did 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 was caused to the teacher. The panel therefore decided to amend the allegations as proposed.

Lastly the presenting officer made an application to anonymise all of the TRA's witnesses involved. Paragraph 4.60 of the Procedures allowed the panel, if it considered it to be in the interests of justice, to decide that the identity of witnesses, either referred to in the hearing papers or present before the panel to give oral evidence, should not be disclosed during the hearing, or at all.

The panel took into account the general rule that matters pertaining to these hearings should be held in public and took account of case law that states *'It is necessary because the public nature of proceedings deters inappropriate behaviour on the part of the court. It also maintains the public's confidence in the administration of justice. It enables the public to know that justice is being administered impartially. It can result in evidence becoming available which would not become available if the proceedings were conducted behind closed doors or with one or more of the parties' or witnesses' identity concealed. It makes uninformed and inaccurate comment about the proceedings less likely'*.

The panel had regard to whether the request for anonymity of the witnesses ran contrary to the public interest. The panel also had regard to the principle that limited interference with the public nature of the proceedings is preferable to a permanent exclusion of the public.

The panel decided that, in the circumstances of this case, it is was appropriate to anonymise the identity of the TRA's witnesses. The panel considered that all of the pupils in the teacher's particular class were listed and it could, therefore, reveal the identity of any particular pupil. Due to the sensitive nature of the allegations involved, the panel determined that it would be appropriate, in the circumstances, for all the witnesses to remain anonymous in order to protect any particular pupil's identity.

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/Child List – pages 2 to 3

Section 2: Notice of Proceedings and Response – pages 5 to 9

Section 3: TRA witness statements – pages 11 to 23

Section 4: TRA documents – pages 25 to 72

Section 5: Teacher Documents – 74 to 245

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

Signed Statement of Pupil B – page 22a

Settlement Agreement - pages 246 to 254

Letter from Hospital containing medical evidence – page 255

Letter from GP practice containing medical evidence – page 256

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

Witnesses

The panel heard oral evidence from Pupil A and Child X who were former pupils of the School, called by the presenting officer.

The panel also heard oral evidence of the teacher as well as from the spouse of the teacher, three former pupils of the School, a former colleague of a different school and a contractor who had attended the School on occasion for work purposes, called by the teacher's representative.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Ullmer was employed at the School between September 1989 to 2002. In August 2017 Mr Ullmer was employed as the headteacher at the Haileybury Astana School in Kazakhstan. On 31 October 2018, the Chairman of Governors at the Haileybury Astana School received an email from Pupil A (a former pupil of the School) who alleged that he had a relationship with Mr Ullmer that started when he was 13 years old. Pupil A described that this relationship lasted for three years and at the age of 16 he was sexually abused by Mr Ullmer. Following on from a meeting between Pupil A and a Governor and Deputy Clerk at the Haileybury Astana School on 3 December 2018, Mr Ullmer entered into a settlement agreement with Haileybury Astana School and left.

Findings of fact

At the outset of these proceedings, the panel noted that Pupil A's and Mr Ullmer's evidence, both orally and in written format, often gave contradictory accounts of some of the events. The panel took into account the fact that both parties had training in Drama in their professional lives and was mindful to remain vigilant about the accounts given and their presentation throughout.

Throughout the proceedings, the panel took into account the credibility of all the witnesses involved, and was mindful that some findings of fact often came down to a case of whose evidence was preferred and/or was corroborated by other witnesses.

The findings are as follows:

1. You failed to maintain appropriate professional boundaries and/or developed an inappropriate relationship with Pupil A between and/or around 1989 and 1995 whilst Pupil A was a pupil at the school, including by;

1a. providing Pupil A with special privileges, such as by giving Pupil A keys to access your office and/or permitting him to eat his lunch in your office and/or having access to a telephone;

The panel noted from the outset that Mr Ullmer denied this allegation in his witness statement. He explained that 'the drama offices and store areas were open to pupils at lunch and after school...students often ate packed lunches in drama areas... I would often send pupils with keys to my office so they could collect things from their bag or bring over books and equipment'.

In his written evidence Mr Ullmer went on to state 'when pupils needed to ring home as they were going to be late due to rehearsals they were always allowed to do so... none of these permissions were privileges to Pupil A'. Further in oral evidence, Mr Ullmer put forward that Pupil A may have used the telephone more, for purposes such as telephoning drama theatres to make arrangements. However, Mr Ullmer was consistent in that these instances were not only for Pupil A, and were available to all the students.

In Pupil A's written evidence he put forward that 'other pupils didn't use Mr Ullmer's office as I did... I went in Mr Ullmer's office to eat my lunch and use the telephone'.

The panel heard evidence from a contractor who occasionally worked at the School, who stated that during his visits to the Drama department it was noticeable that Mr Ullmer seemed to give open access to pupils and that pupils were trusted with a key. In oral evidence the contractor confirmed that he witnessed a female pupil having lunch in the office on an occasion when he visited. This evidence confirmed to the panel that other pupils had access to the office, as well as permission to eat lunch in the office and have access to the telephone, and therefore, this was not specific to Pupil A only.

The panel found allegation 1a not proven.

1b. giving lifts to Pupil A and/or permitting Pupil A to drive your car;

The panel was mindful that Mr Ullmer gave varying accounts in regards to this allegation.

The panel firstly turned its mind to Mr Ullmer who, in his written evidence, admitted that Pupils were 'often given lifts home' and confirmed in his oral evidence that he gave Pupil A lifts home. The panel noted that there were some inconsistencies between the accounts of the teacher and Pupil A regarding the frequency of said lifts. However, the panel was satisfied that lifts were given and this was not in dispute between the parties.

The panel noted that Mr Ullmer in his written evidence put forward 'I never allowed him to drive my car' and further denied in oral evidence that such an instance would have occurred. However, Pupil A, in his oral evidence, described, in explicit detail, an occasion of driving the car around a car park in Leigh-on-Sea. The panel found this account to be consistent with Pupil A's written evidence which stated 'Whilst in Year 11 and Year 12 Mr Ullmer used to let me drive around car parks in his [vehicle]'. On the balance of probabilities, the panel preferred the evidence of Pupil A.

The panel found allegation 1b proven.

1c. making inappropriate comments to Pupil A, such as by;

- i. telling Pupil A that once he turned 16 you would become better friends and/or would spend more time outside of school;**
- ii. telling Pupil A to keep visits to your home accommodation quiet and/or not to tell other teachers;**
- iii. suggesting that by sharing information of a sexual nature that you didn't share with others, it would build a deeper friendship;**
- iv. accusing Pupil A of being a bad friend as he was not prioritising you;**
- v. questioning Pupil A about his personal relationships and/or sexual experiences;**
- vi. telling Pupil A about your own personal relationships and/or sexual experiences;**

The panel noted that the teacher denied all the allegations in his written evidence. He proffered that the only advice he gave to Pupil A was 'the same as was said in PSHE classes'.

The panel firstly reviewed a transcript of a covertly recorded conversation between Pupil A and the teacher that occurred July 2018, in which Mr Ullmer said, 'a friendship that we had which was close and you know, perhaps on the other hand it was too close'. Later in the recorded conversation he went on to say, 'the only thing I can think of you know will talk about the time I was married... and I was pretty nervous about erm you know, erm, sex', which indicated to the panel that conversations of a personal nature took place.

Further in oral evidence, Mr Ullmer admitted that when he and Pupil A were in the car on an occasion, he recalled handing him an article about young people refraining from engaging in sexual activity. He described, in some detail, that he told Pupil A about an article which indicated that there was a direct correlation between those students who abstained from sex and their intelligence.

The panel went on to assess the written evidence of Pupil A in which he said they spent a lot of time in the car talking about ‘everything’ and that ‘He would say that we had formed a deep friendship and there was nothing wrong with that... He told me that once I was 16 we could become even better friends and hang out more outside school’. Further in oral evidence, Pupil A said that he believed that he and Mr Ullmer had a deep friendship when he was still at School.

Whilst the panel was mindful that there was not sufficient evidence to conclude that each comment was clearly made, the panel took the view that on the basis of the evidence presented, and given the accounts of both Pupil A and Mr Ullmer, that it was more likely than not that these types of conversations took place. The panel concluded that conversations were of a personal nature and were therefore inappropriate.

The panel found allegation 1c proven in its entirety.

1d. spending time with Pupil A outside of the School's premises, including by;

i. allowing Pupil A to go to your home accommodation and/or to stay overnight;

The panel noted that Mr Ullmer denied this allegation in his written evidence indicating that ‘Pupil A only began to visit my home when he left sixth form except for a few occasions when, for example, [a former pupil] had him with him in his car to collect props or drop things off’. The panel was mindful that this evidence was at odds with Pupil A’s account that ‘Mr Ullmer was keen for me to keep the visits to his house quiet and told me not to tell other teachers’.

The panel went on to review the transcript of the covert recording. The panel noted that throughout the recording, Pupil A repeatedly referred to the period of time when Pupil A was at School, specifically mentioning, at a number of points, the period when he was between the ages of 13 to 18. Mr Ullmer, when questioned by Pupil A about staying over at his home, said, ‘well you know when you stayed over a number of times’. The panel took into consideration Mr Ullmer’s version of events that in answering Pupil A’s questions in that particular conversation, he was referring to times when Pupil A had left the School. Due to the fact that Pupil A repeatedly referred to school years throughout the conversation, the panel, on the balance of probabilities, concluded that Mr Ullmer, as a professional headteacher of many years of experience, could have not misunderstood.

The panel also heard in the teacher’s oral evidence, that when he was discussing with Pupil A in the car a [redacted] University application, he inadvertently indicated to the panel that the conversation was, ‘more likely at home’. The panel found this instance to appear to be a slip up in his account of events and concluded to the panel that he may have been lying.

Lastly, the panel heard oral evidence from Child X (who was Pupil A's girlfriend during sixth form) that she, following a conversation with Pupil A's father to enquire of his whereabouts was told that, 'he was at Jonathan's'. She explained that she, 'frequently' phoned to speak to Pupil A at Mr Ullmer's home. The panel noted that she was clear in her recollection that Mr Ullmer answered the landline and passed the phone over to Pupil A. The panel therefore, concluded that Pupil A was with Mr Ullmer in his home on a number of occasions.

The panel found allegation 1d.i proven.

ii- taking and/or going with Pupil A to restaurants/pubs and/or the cinema;

The panel was mindful that Mr Ullmer denied this allegation at the outset.

Pupil A said that 'we went out for meals once every couple of weeks and went to a cinema in Basildon once every 3 weeks.'. The panel noted that in oral evidence, Pupil A was able to discuss, in detail, the precise locations of the cinemas and of some of the locations where they went for dinner. On the whole, the panel found this evidence to be both consistent and credible.

The panel was mindful that Pupil A put forward the suggestion in oral evidence that these outings were a distance from the local area, and this was, 'in case we met other students'. This evidence demonstrated to the panel that Mr Ullmer had an awareness that such outings might have been considered inappropriate by the public.

Further, the panel heard in oral evidence from Child X that she said that she went for a meal with both Pupil A and Mr Ullmer around Christmas in 1994. This account of events was corroborated by Pupil A.

The panel was satisfied that it was more likely than not that Mr Ullmer spent time with Pupil A outside the School in the ways described.

The panel found allegation 1d.ii proven.

iii- going to Kent with Pupil A and/or staying overnight in Kent with Pupil A;

The panel noted that Mr Ullmer was inconsistent in his account of events regarding this allegation.

In written evidence he stated that Pupil A, whilst still at School, had put together a performance group, and as such 'On one occasion I took Pupil A to meet the Head of Drama in Kent who had a lot of experience of having teams of students perform at the Edinburgh Fringe and setting up theatre companies'. When he was questioned about this

in oral evidence, the teacher admitted that in hindsight he was, 'naïve' to have taken Pupil A alone to Kent but thought that it would be fine to do this as they were going to meet another teacher. He further put forward in oral evidence that this was not unusual at the time, and that he had taken another pupil on a trip to further his studies, suggesting, 'this support was the hallmark of the Expressive Arts team at [the School]. However, the panel noted that another teacher had accompanied that pupil and Mr Ullmer on the trip.

The panel heard from Pupil A who recalled that there was a trip to Kent to see a drama teacher but that, 'Mr Ullmer said it was too late to get home but said we could stay in a flat which I think was either his old flat or a friend's flat'. He explained in detail that this was memorable to him as it was the first time they shared a bed. The panel believed his account to be credible and consistent with his written evidence. Moreover, when the panel questioned Mr Ullmer in regard to what happened after the meeting with the Drama teacher, he was unable to give an answer about how they got home. The panel was mindful that over time, memories could fade and that it would be difficult for the teacher to recall events in any specific detail. Nevertheless, the panel felt he was unable to say it didn't happen.

The panel found allegation 1d.iii proven.

iv- taking Pupil A to your parents' accommodation and/or staying with Pupil A overnight at your parents' accommodation;

The panel noted that Mr Ullmer denied this allegation. In written evidence, Pupil A had stated that, 'I think it was during the summer [redacted], when I went with Mr Ullmer to his parents' house in Oxford for the night'. When questioned in oral evidence, Pupil A could not be sure of the timings and admitted that it could have occurred at a later date in their friendship.

However the panel was of the view that the evidence received was not robust enough and was inconclusive.

The panel found allegation 1d.iv not proven.

1e - providing Pupil A with food and/or alcoholic drinks;

It was noted that Mr Ullmer denied this allegation but, in oral evidence, he stated that he regularly, 'over catered' at home and if a child was hungry he may have given them leftovers.

The panel reviewed Pupil A's account of events in which he stated in written evidence that 'Mr Ullmer frequently cooked me meals. On more than one occasion he cooked me a huge meal, which had 3 or 4 courses with wine. I remember that he had tomatoes cut in half with serrated edges filled with caviar. There were napkins, posh bowls and crystal

glasses'. The panel found Pupil A to be consistent and convincing in oral evidence as to his account of events. Moreover, the panel remarked that this level of detail was unusual when recalling a meal, therefore strengthening its credibility.

The panel noted that Pupil A's and Mr Ullmer's accounts in regard to alcoholic consumption were completely different. Pupil A put forward that when with Mr Ullmer, it was the first time he had 'open access to alcohol. I felt all grown up and I liked it. Almost every time we would have a meal we would have a drink together'. The panel remarked that it would not be unusual to remember the first time you consumed alcohol, and therefore, deemed Pupil A's account of events, presented in detail, to be credible.

The panel found allegation 1e proven.

1f. providing Pupil A with the keys to your home accommodation and/or allowing Pupil A to stay with his girlfriend overnight at your home accommodation;

It was noted that the teacher denied this allegation from the outset.

The panel heard oral evidence from Child X that she stayed at Mr Ullmer's home with Pupil A whilst Mr Ullmer was away. This explanation of events was consistent with Pupil A's written and oral evidence. The panel therefore concluded that Pupil A and his girlfriend did stay at the teacher's home overnight.

The teacher put forward that he did not have any awareness that this occurred in oral evidence and appeared adamant in his responses and spoke with conviction about this. He indicated that Pupil A must have taken one of the sets of house keys from Mr Ullmer's car without his knowledge. Pupil A suggested Mr Ullmer 'lent me his flat keys and let me stay overnight with my girlfriend'; however, the panel found there was insufficient information to prove, on the balance of probabilities, whether Mr Ullmer knew or allowed this to happen.

The panel found allegation 1f not proven.

1g. staying in the same bed with Pupil A;

The teacher denied this allegation on the basis that, 'this only happened occasionally and only when Pupil A was at university and afterwards'. The panel noted evidence from both Pupil A and Mr Ullmer throughout the proceedings that identified that there clearly was an enduring friendship between them over a long period following Pupil A's departure from School. Indeed, the panel noted there was a possibility that there was confusion between the timeframe of events.

However, the panel heard in oral evidence that the first time Pupil A shared a bed with Mr Ullmer occurred [redacted], following a trip to Kent, as proved above. He explained that he remembered this time well as it was the first time that they had stayed together and shared a bed and he remarked he was, 'quite shocked'. He explained in detail what the location looked like and the panel found this to be believable.

The panel went on to assess the transcript of the covert recorded conversation in which it was discussed that Pupil A had a sleeping bag at Mr Ullmer's home, and to this, Mr Ullmer said, 'you know you would sometimes have a sleeping bag on my...bed'. The panel, on the balance of probabilities, and in consideration of the timeline expressed in the conversation, concluded that this was more likely than not that Mr Ullmer shared a bed with Pupil A during his school years.

The panel found allegation 1g found proven.

1h. placing your arm around Pupil A;

The panel received some evidence regarding this allegation. However the panel was of the view that the evidence received was not robust enough and was inconclusive. Therefore the panel was unable to find this allegation proved.

The panel found allegation 1.h. not proven.

1i. play fighting with Pupil A;

The panel was mindful that the teacher denied this allegation, and put forward that this only occurred in the context of a stage fight. Mr Ullmer had produced photographic evidence of pupils in the School who were photographed on Southend High Street having what appeared to look like a stage fight for a Shakespearean performance. In oral evidence, the photographic evidence was put to Pupil A, and Pupil A in his response stated that, 'he wasn't at the high street production' and explained he was not in the photograph.

In comparison, Pupil A presented written evidence that 'after the summer when I turned 16, Mr Ullmer would often initiate a play fight... I thought this was odd... on a couple of occasions he suggested Paglesham, where there was a field near the pub, to have a play fight. We did this a few times'. Further, in oral evidence, he explained in detail the location of where this took place, 'in Mr Ullmer's flat and, near Paglesham in a field at night'. The panel found Pupil A's account of events to be detailed and consistent throughout.

The panel found allegation 1i proven.

1j. hitting Pupil A's bottom with a shoe horn;

The panel received some evidence regarding this allegation. However the panel was of the view that the evidence received was not robust enough and was inconclusive. The panel heard various descriptions of the implement having been alleged to have been used for punishment and therefore created uncertainty as to this allegation.

Therefore the panel was unable to find this allegation proved.

The panel found allegation 1j not proven.

1k. allowing Pupil A to hit your bottom with a shoe horn and/or exposing your genitals when Pupil A hit your bottom with a shoe horn;

The panel noted the similarities between allegation 1j, and having not found allegation 1j proven, were unable to find this allegation proved.

The panel found allegation 1k not proven.

1l. discussing masturbation with Pupil A;

The panel was mindful that this allegation was 'denied at any time' by the teacher who stated 'we never discussed this'.

The panel reviewed the written evidence of Pupil A which stated Mr Ullmer had two previous girlfriends that each had 'jerked him off' on a number of occasions. The panel noted that it was unusual that Pupil A was able to recall the specific names of the girlfriends and the nature of the actions involved, and therefore preferred his account of events.

The panel found allegation 1l proven.

1m. engaging in sexual activity in the presence of Pupil A;

The panel noted that the teacher denied this allegation and stated in written evidence that 'I am happily married and have always been heterosexual'. Further, in oral evidence, Mr Ullmer was consistent in his denial.

The panel reviewed written evidence of Pupil A which stated 'On one occasion when I went to Mr Ullmer's flat towards the end of my time at school, he began to masturbate on the sofa'. The panel heard in oral evidence when this evidence was put to Pupil A that he felt as though this behaviour was, 'part of the deal'. The panel also considered the oral evidence of Pupil A in which he recalled occasions where Mr Ullmer came out of the room and, 'showed me his erection.'

The panel was mindful of the serious nature of the allegation, and therefore considered that Pupil A might have made it up. Indeed, they considered evidence of the teacher's

representative that Pupil A, in his professional life, had described himself as an [redacted] and assessed written evidence that there were instances in Pupil A's career where he had [redacted]. However, Pupil A in oral evidence was challenged as to this allegation, and he responded to say, 'because it is real life – this is real'. On the balance of probabilities, the panel felt Pupil A's account of events to be genuine, notwithstanding his profession. The panel noted that he came across with raw emotion, and appeared very distressed, at times, and emotional when recounting the events.

The panel found allegation 1m proven.

1n. engaging in sexual activity with Pupil A;

The panel noted that the teacher denied this allegation and stated in his written evidence that 'nothing sexual ever happened between myself and Pupil A during our friendship'.

The panel carefully considered the transcript of the covert recorded conversation. The panel heard the conversation between Pupil A and Mr Ullmer where Pupil A asked, 'does [your wife] know about the sexual side of the friendship?' and Mr Ullmer replied, 'no'. Pupil A probed further and Mr Ullmer said, 'not really discussed that with her'.

The panel was mindful that in oral evidence, Mr Ullmer described that he was in a state of shock during the conversation and therefore there were inconsistencies in responses. He suggested that there could have been confusion as to what he was being asked and explained the context of the conversation, being in a crowded café. Moreover, he described that Pupil A was angry and he felt intimidated. The panel placed significant weight on this evidence in favour of the teacher.

However, the panel noted that Mr Ullmer was asked several times about various instances that Pupil A alleged happened whilst he was of school age. One of these involved an allegation of Pupil A touching Mr Ullmer's penis at his request, to which the panel noted he was asked about several times early in the conversation. The panel accepted that at the beginning of the conversation there may have been some confusion on the part of Mr Ullmer. However, the panel noted that 33 minutes into the conversation, the panel found it unlikely for Mr Ullmer to have misunderstood what Pupil A meant as it was a clear reiteration of what he was asked early on. The panel was made aware of how Mr Ullmer generally operated under pressure, and heard evidence from his spouse that he would usually, 'walk away' from confrontation. The panel could not reconcile his behaviour in light of the serious nature of the allegations made.

The panel went on to consider evidence from Mr Ullmer that the only possible incident involving penis touching that happened was initiated by Pupil A whilst he was at university. He explained in written evidence that, '[Pupil A] had been drinking at the pub and we were lying top to tail on the large sofa. He leant forward and pulled at my tracksuit bottoms I was wearing revealing my penis and he flicked it briefly. It was

fleeting, but I never touched him or responded at all and there was no erection or sexual intent... I can only think this is the incident that has been playing on Pupil A's mind'. Mr Ullmer expanded in oral evidence this may have been the incident that he thought Pupil A was referring to when he was questioning him during the covert recorded conversation. The panel found that when asked to describe the logistics of his account, found it to be inconsistent and to change throughout. The panel noted that at some points, it felt like a word salad. Further, when Pupil A was taken to Mr Ullmer's account of the penis flicking event, he was aghast and said, 'what?', 'Nonsense! I didn't do that'.

The panel also examined written evidence from Pupil A that Mr Ullmer often played 'games' with Pupil A and that the games were always 'sexual'. In oral evidence, Pupil A was able to clearly describe the games and explained, 'I think he wanted us to masturbate together'. When asked what gave Pupil A that impression, he said, 'it's what we did'.

Lastly, the panel reviewed written evidence of Pupil A in which he described that Mr Ullmer would 'frequently want massages' and also stated 'Eventually he would take all his clothes off and lie on the floor. He also brought out oil for me to massage him with'. This account of events was consistent in oral evidence where Pupil A described clearly the areas where he massaged Mr Ullmer and how he was massaged in return. The panel reviewed the written evidence of Mr Ullmer in which he stated that Pupil A had given him back and leg massages and he reciprocated when asked, but described this happening after Pupil A left School and, 'there was nothing inappropriate'. The panel preferred the evidence of Pupil A as he described in a very precise and consistent manner the areas of the body that were massaged and he appeared both embarrassed and disgusted.

The panel found allegation 1n proven.

2. Your conduct as may be found proven at 1 above was sexually motivated.

The panel had regard to the legal advice received and formed their own view. It noted at the outset, that it would be reasonable to assume that some of Mr Ullmer's actions that the panel found proved, such as having a pupil over to a teachers house, allowing a pupil to stay in a bed with a teacher, playing games of a sexual nature with a pupil, discussing personal relationships and engaging in sexual activity with a pupil would be indicative of behaviours that were sexually motivated. The panel was of the view that a reasonable person would find that the actions of Mr Ullmer could be sexual in all the circumstances.

Mr Ullmer denied the allegation expressly in oral evidence. The panel considered the both the written and oral evidence of Mr Ullmer in which he offered rationale to some of the allegations. Mr Ullmer described there was only once instance which he could recall that could have been deemed potentially sexual, which he explained had happened after Pupil A left the School. He added 'he didn't think anything of it'. The panel, having asked

him to explain this instance in further detail, noted that his account of the event was inconsistent and changed throughout the course of his evidence. The teacher's inconsistency was of a concern to the panel and therefore they did not accept his version of events.

The panel noted that Pupil A described that when he was of school age, Mr Ullmer had 'begged him to touch his penis as part of a dare. Then for a few seconds I did and he ejaculated almost immediately'. Explicitly in his oral evidence, Pupil A explained in graphic detail what happened, and described and re-enacted, 'mopping up his semen as it ran down my hand', describing his reaction at the time as, 'horrified' and said to the panel that, 'something clicked', and he realised, 'this was a dangerous path to go down'. The panel, having found proven allegations 1m and 1n, and having heard instances of this nature described by Pupil A clearly, consistently and credibly it was obvious to the panel that the conduct was of a sexual nature.

On the balance of probabilities, the panel found allegation 2 found proven.

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

Having found allegations 1b, 1c, 1d (parts 1, 2 and 3), 1e, 1g, 1i, 1l, 1m, 1n and 2 proven, the panel went on to consider whether the facts of that allegation amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to its knowledge and experience as to the teaching standards at that time. The panel noted that there was no codified set of standards such as there is today.

The panel took account of its own understanding and experience of the teaching standards in the 1990's, as well the prevailing culture of that era. The panel considered that making inappropriate comments to pupils of a personal nature, spending time with a pupil outside school in the context of allowing a pupil to stay over at the home of a teacher, share a bed with a teacher as well as engage in sexual activity with a pupil, would, in the panel's view, never be appropriate in any era. In the panel's experience it considered that it was not appropriate for a teacher to embark on a relationship with a pupil in such a manner as observed by Mr Ullmer.

The panel therefore considered that Mr Ullmer's standards fell short of the standards expected of the profession at the time, particularly the failure to maintain proper professional boundaries with Pupil A. The panel considered that this standard is a fundamental one and, whilst not explicit in the 1990's, it nevertheless existed.

Today, the standards are more clearly codified in the document called Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”. The standard states that:

“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”.

The panel also considered whether the teacher’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel found that the offence of sexual activity was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct. The panel considered that in engaging in instances such (but not limited to) masturbation, exposure of genitals, full body massage and inappropriate conversations with a pupil, that this behaviour was clearly unacceptable.

The panel was satisfied that the conduct of the teacher amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Accordingly, the panel was satisfied that the teacher was guilty of unacceptable professional conduct.

The panel noted that a number of the allegations took place outside of the education setting. This current codified standard is only relevant to the extent that it describes how a person should fulfil their teaching role today. As much of the conduct complained of took place outside the education setting, the panel also therefore, had regard to this current standard in its consideration of the way in which Mr Ullmer fulfils his current teaching role.

The panel took into account the way the teaching profession is viewed by others (both then and now) and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils’ lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel was of the view that by Mr Ullmer’s engaging in conduct such as spending time with a pupil outside school in the circumstances described, clearly affected the way the person fulfilled their teaching role or may lead to pupils being exposed to, or influenced by, the behaviour in a harmful way. Indeed, some 20 years later, this has had a profound effect on the pupil involved.

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception of him.

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

Having found the facts of particulars 1b, 1c, 1d (parts 1-3), 1e, 1g, 1i, 1l, 1m, 1n and 2 proven, the panel further found that Mr Ullmer's 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, 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 had to consider whether it would be an appropriate and proportionate measure, and whether it would be 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 had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely, the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Ullmer, which involved an inappropriate relationship with a pupil which involved sexual activity, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings. Whilst the panel noted that these events occurred a number of years ago, the panel believed that there was a continuing risk due to Mr Ullmer's inability to understand or admit his behaviour and or consider their effects.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Ullmer, was not treated with the utmost seriousness when regulating the conduct of the profession. The panel deemed this conduct to be egregious and unforgiveable. Indeed, Pupil A himself said that Mr Ullmer couldn't, 'control him anymore'. Furthermore, there was public interest in declaring and upholding professional standards of conduct. It was clear to the panel that Mr Ullmer had failed to do this through his actions at the time. It was of particular concern to the panel that Mr Ullmer had continued to teach for many years unchecked.

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 Ullmer.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of and against prohibition as well as the interests of Mr Ullmer. 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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- 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;

Even though some of the behaviour found proven in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors.

Mitigating factors may indicate that a prohibition order would not be not appropriate or proportionate.

In the light of the panel's findings, there was no evidence that the teacher's actions were not deliberate. There was no evidence to suggest that the teacher was acting under duress, in fact the panel found the teacher's actions to be calculated, motivated and sustained over a significant period of time. The panel remarked that Mr Ullmer had abused his position of trust and taken advantage of a vulnerable pupil who Mr Ullmer knew came from a turbulent family background.

The panel was told that the teacher did have a previously good history and some 30 years of experience in schools both in England and abroad, became a headteacher of more than one school, and received an MBE for his services to education. The panel also noted the evidence contained within the bundle which had various positive character references from a variety of former colleagues, former pupils and friends.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would *not* be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in

the case would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for the teacher of prohibition.

The panel was of the opinion that prohibition was not only proportionate and appropriate, but essential. The panel decided that the public interest considerations significantly outweighed the interests of Mr Ullmer. The sexual element to his behaviour was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. One of these behaviours includes serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. In light of the panel's findings of sexual behaviour and motivation, the panel was satisfied that a review period would *not* be appropriate in the circumstances. The panel formed the view that his behaviour would be considered by the 'ordinary intelligent citizen' as being incompatible with being a teacher. Moreover, the panel recognised the long term and serious consequences for Pupil A as a result of Mr Ullmer's behaviour that has only come to the fore some 20 or so years later.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring

the profession into disrepute. In this case, the panel has found some of the allegations not proven. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Ullmer should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has set out its findings in this case as follows:

“The panel therefore considered that Mr Ullmer’s standards fell short of the standards expected of the profession at the time, particularly the failure to maintain proper professional boundaries with Pupil A. The panel considered that this standard is a fundamental one and, whilst not explicit in the 1990’s, it nevertheless existed.”

The panel also say:

“Today, the standards are more clearly codified in the document called Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”. The standard states that:

“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”.

Finally, the panel also considered whether the teacher’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel say that it, “found that the offence of sexual activity was relevant.”

The findings of misconduct are particularly serious as they include a finding of sexual activity.

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 Ullmer, 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 observed that it, “considered that in engaging in instances such (but not limited to) masturbation, exposure of genitals, full body massage and inappropriate conversations with a pupil, that this behaviour was clearly unacceptable.”

A prohibition order would therefore prevent such a risk from being present in the future. I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Whilst the panel noted that these events occurred a number of years ago, the panel believed that there was a continuing risk due to Mr Ullmer’s inability to understand or admit his behaviour and or consider their effects.”

In my judgement, this finding indicates a lack of insight and remorse and it means that there is some risk of the repetition of this behaviour and this puts at risk the future well-being of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that it, “took into account the way the teaching profession is viewed by others (both then and now) and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils’ lives and the fact that pupils must be able to view teachers as role models in the way that they behave....The panel was of the view that by Mr Ullmer’s engaging in conduct such as spending time with a pupil outside school in the circumstances described, clearly affected the way the person fulfilled their teaching role or may lead to pupils being exposed to, or influenced by, the behaviour in a harmful way. Indeed, some 20 years later, this has had a profound effect on the pupil involved.”

I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has 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 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 Ullmer himself. The panel comment “ The panel was told that the teacher did have a previously good history and

some 30 years of experience in schools both in England and abroad, became a head teacher of more than one school, and received an MBE for his services to education. The panel also noted the evidence contained within the bundle which had various positive character references from a variety of former colleagues, former pupils and friends.”

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

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has also said, “Mr Ullmer had abused his position of trust and taken advantage of a vulnerable pupil who Mr Ullmer knew came from a turbulent family background.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Ullmer has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is as the panel say, “not only proportionate and appropriate, but essential” and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel’s comments, “The panel formed the view that his behaviour would be considered by the ‘ordinary intelligent citizen’ as being incompatible with being a teacher. Moreover, the panel recognised the long term and serious consequences for Pupil A as a result of Mr Ullmer’s behaviour that has only come to the fore some 20 or so years later.”

I have considered whether allowing for no review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors that mean a no review period is proportionate are, the sexual misconduct found, the lack of either insight or remorse, and the long term and serious consequences on Pupil A.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Jonathan Ullmer is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or

children's home in England. Furthermore, in view of the seriousness of the allegations found proven against him, I have decided that Mr Jonathan Ullmer shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Jonathan Ullmer 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 'Alan Meyrick', written over a vertical line.

Decision maker: Alan Meyrick

Date: 27 November 2019

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