



Teaching
Regulation
Agency

Mr Anu Tester: Professional conduct panel meeting outcome

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

February 2021

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

Teacher:	Mr Anu Tester
Teacher ref number:	1644589
Teacher date of birth:	17 March 1985
TRA reference:	0019293
Date of determination:	19 February 2021
Former employer:	Wynstones School, Gloucestershire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 19 February 2021, to consider the case of Mr Anu Tester.

The panel members were Mr Maurice McBride (lay panellist – in the chair), Ms Claudette Salmon (teacher panellist) and Mrs Claire Bentley (lay panellist).

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

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Tester that the allegations be considered without a hearing. Mr Tester provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Tester or any representative appointed on his behalf.

The meeting took place in private, save for the announcement of the panel’s decision, which was announced in public and recorded.

Allegations

The panel considered the allegations set out in the notice of meeting dated 28 January 2021.

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

1. On or around 15 August 2019 he failed to maintain appropriate professional boundaries with one or more pupils, including that:

- a) He went to Gloucester with four pupils including Pupil A to celebrate A Level exam results;
- b) He went to Bristol alone with Pupil A;
- c) He drank alcohol in the company of Pupil A;
- d) He became inebriated in the company of Pupil A;
- e) He texted Pupil A;
- f) He emailed Pupil A; and
- g) He corresponded with Pupil A on social media.

2. He engaged in inappropriate physical contact with Pupil A including by:

- a) Kissing Pupil A; and
- b) Making sexual contact with Pupil A.

3. His behaviour as may be found proven at 2 above was conduct of a sexual nature and/or was sexually motivated.

4. He withheld information from his colleagues about his social arrangements regarding conduct at 1(c) and 1(d) on 15 August 2019 in order to avoid detection.

5. His conduct as may be found proven at 4 above lacked integrity and/or was dishonest.

6. He failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A in or around the summer term 2019, despite being aware that Pupil A was attracted to him.

Mr Tester admitted the facts of the allegations and that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

Section 1: Notice of Referral & Response – pages 2 to 9

Section 2: Statement of Agreed Facts and Presenting Officer Representations – pages 10 to 18

Section 3: Teaching Regulation Agency documents – pages 21 to 93

Section 5: Teacher documents – pages 96 to 111

The panel members confirmed that they had read all of the documents within the bundle, in advance of the meeting.

Statement of agreed facts

The panel considered a statement of agreed facts, which was signed by Mr Tester on 8 January 2021.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Tester for the allegations to be considered without a hearing.

The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

The panel proceeded to carefully consider the case, having read all the documents, and reached a decision.

Mr Tester was previously employed as a Philosophy teacher at Wynstones School ("the School").

The School is an independent Steiner Waldorf School in Gloucestershire, for children aged three to nineteen.

The allegations in this case concern Mr Tester's interactions with a pupil at the School, Pupil A.

During the academic year 2018/19, Mr Tester accepts that he grew close to Pupil A, a Year 13 student at the time, and provided her with specific emotional support.

In the summer term 2019, Pupil A 'added' Mr Tester as a social media contact. Mr Tester did not block or prevent Pupil A from doing so, thereby allowing for contact via social media.

Subsequently, on 15 August 2019, which was results day for A Level students, which included Pupil A, Mr Tester travelled to Gloucester with several pupils, Pupil A included, where alcohol was consumed. Subsequently, Mr Tester and Pupil A travelled to Bristol together, consumed more alcohol and stayed at a hotel. Pupil A subsequently made a report to her tutor about Mr Tester's conduct.

As a consequence, Mr Tester was suspended. A safeguarding referral was made to the relevant local authority and the police commenced an investigation. No further action was ultimately taken by the police. Subsequently, disciplinary proceedings were commenced against Mr Tester by the School, which led to his referral to the TRA.

In considering the allegations, the panel did not rely upon any findings made or opinions expressed in the documentation included within the hearing papers. It formed its own, independent view of the allegations based on the evidence presented to it.

Findings of fact

The findings of fact are as follows.

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

1. On or around 15 August 2019 you failed to maintain appropriate professional boundaries with one or more pupils, including that:

a) You went to Gloucester with four pupils including Pupil A to celebrate A Level exam results

b) You went to Bristol alone with Pupil A

The panel considered allegations 1(a) and 1(b) together.

Mr Tester admits that he did act as alleged and that, by doing so, he failed to maintain appropriate professional boundaries. He therefore admitted allegations 1(a) and 1(b).

Mr Tester accepts that, following Pupils A, B, C and D obtaining their A Level results on 15 August 2019, he accompanied them to Gloucester. He did so for the purposes of celebrating with the pupils.

During the course of the day, Mr Tester and the pupils attended various venues where alcohol was consumed.

Mr Tester admits that, after a period of time spent drinking with Pupils A, B, C and D, he and Pupil A went to Bristol together to visit other venues in the city.

Given the clear evidence before the panel, particularly the account provided by Pupil A and the messages included in the hearing papers, it accepted Mr Tester's admissions and found the facts of allegations 1(a) and 1(b) proved. Mr Tester should not have behaved in this manner with these pupils, whether or not they would be returning to the School for the following academic year. By doing so, he failed to maintain appropriate professional boundaries.

c) You drank alcohol in the company of Pupil A

d) You became inebriated in the company of Pupil A

The panel considered allegations 1(c) and 1(d) together.

Mr Tester accepts that, whilst accompanying Pupil A to venues in Gloucester and in Bristol, he consumed a number of alcoholic drinks.

He accepts that he did so to such an extent that he became inebriated while still in Pupil A's company.

Mr Tester accepts that, due to his inebriated state while with Pupil A, his decision-making was impaired and his inhibitions were reduced.

The allegations were accordingly admitted by Mr Tester.

His admission was unequivocal and was consistent with the account provided by Pupil A at the time. The panel was satisfied that Mr Tester should not have drunk alcohol with Pupil A and certainly not to the extent that he did. By doing so, he failed to maintain appropriate professional boundaries.

Given the evidence as to the quantity of alcohol consumed during the course of the day, it was more likely than not that Mr Tester was inebriated, which he fully accepted. Pupil A is recorded as stating they were both "very drunk".

The panel therefore found the facts of allegations 1(c) and 1(d) proved.

e) You texted Pupil A

f) You emailed Pupil A

The panel considered allegations 1(e) and 1(f) together. They were both admitted by Mr Tester.

Mr Tester admits that he sent text messages to Pupil A's mobile phone. Whilst it was unclear when Mr Tester began to send text messages, there was clear evidence before the panel that this commenced, at the latest, from 15 August 2019.

Mr Tester also admits that he communicated with Pupil A by sending her email correspondence.

Mr Tester accepts that, in order to avoid detection in terms of his communicating with Pupil A via email, he applied a security setting to one email in August 2019. This had the effect that the email:

- was prevented from being forwarded onto other addressees; and
- would expire within a week of being sent.

Mr Tester accepts that this was an attempt, on his part, to disguise the inappropriateness of the email, the relationship that had emerged between him and Pupil A and his sexual contact with her.

The panel considered that the circumstances of this contact was highly inappropriate and went beyond what was acceptable as regards communications between a teacher and a pupil.

The panel concluded that the evidence before it, included some of the messages that were exchanged, was consistent with Mr Tester's admissions and found the facts of allegations 1(e) and 1(f) proved.

g) You corresponded with Pupil A on social media

Mr Tester admits that he engaged in correspondence with Pupil A on social media platforms, namely Instagram and Twitter, including:

- in July 2019, prior to the end of term; and
- prior to A Level results day.

Mr Tester accepts, as recorded in his interview with Avon and Somerset police, that he was fully aware that, notwithstanding it being near the end of term, this was a breach of school policy and that it was inappropriate.

The panel agreed. This behaviour was a clear failure, on the part of Mr Tester, to maintain appropriate professional boundaries. It also considered that the way in which the relationship developed was such that Mr Tester had allowed his professional boundaries to become blurred.

Whilst no copies of any of the actual messages exchanged were included in evidence, Mr Tester had never disputed acting in this manner. His admissions were clear and unequivocal. The panel therefore found the facts of allegation 1(g) proved.

2. You engaged in inappropriate physical contact with Pupil A including by:-

a) Kissing Pupil A; and

b) Making sexual contact with Pupil A.

The panel considered allegations 2(a) and 2(b) together.

The following matters were admitted by Mr Tester:

- He engaged in inappropriate physical contact with Pupil A.
- Whilst in Bristol with Pupil A on 15 August 2019, Mr Tester kissed Pupil A.
- Over the course of that evening and night, Mr Tester engaged in a series of kisses and prolonged kissing with Pupil A that were sexual and intimate in nature.
- Mr Tester admits that he and Pupil A attended a hotel while in Bristol for the purpose of sexual activity.
- While in the hotel he engaged in sexual activity with Pupil A, including 'grinding' [REDACTED] against Pupil A's [REDACTED] area whilst clothed and touching Pupil A's [REDACTED] with his hand under her [REDACTED]. Mr Tester also said to Pupil A that he [REDACTED].
- Mr Tester shared a bed with Pupil A on the evening of 15 August 2019 at the hotel.
- On the morning of 16 August 2019, Mr Tester invited Pupil A to share a shower with him.

- Mr Tester was romantically attracted to Pupil A.

The panel concluded that the fact that this physical contact happened and the relationship became sexual so soon after the end of the summer term, whether or not Pupil A had formally come off the School's roll, was such that it was certainly inappropriate.

The panel therefore concluded that the evidence before it was consistent with Mr Tester's admissions and found the facts of allegations 2(a) and 2(b) proved.

3. Your behaviour as may be found proven at 2 above was conduct of a sexual nature and/or was sexually motivated.

Having found the facts of allegations 2(a) and 2(b) proved, the panel went on to determine whether Mr Tester's conduct in relation to those allegations was of a sexual nature and/or was sexually motivated.

The panel's findings in relation to these allegations were such that Mr Tester had engaged in sexual acts with Pupil A. This was, unarguably, conduct of a sexual nature, which was readily accepted by Mr Tester.

The only appropriate inference to draw was that Mr Tester was sexually motivated, which he admitted.

The panel was satisfied, based on his admissions, that Mr Tester had a romantic interest in Pupil A and this was the motivation behind his actions. It concluded that the reasonable and common sense inference to draw was that Mr Tester was, by his actions, motivated by a desire to pursue a sexual relationship, as in fact happened to at least some extent. The panel was also satisfied that Mr Tester was sexually motivated in that he derived sexual gratification from his behaviour.

Mr Tester also accepts that there was an inherent power imbalance in his actions and conduct, which arose from his professional role as a teacher. He accepts that he abused his position of trust and that Pupil A may not have been able to appreciate the power imbalance which existed between them.

On that basis and for the above reasons, the panel finds allegation 3 proved.

4. You withheld information from your colleagues about your social arrangements regarding conduct at 1(c) and 1(d) on 15 August 2019 in order to avoid detection.

5. Your conduct as may be found proven at 4 above lacked integrity and/or was dishonest.

The panel considered allegations 4 and 5 together, which were both admitted by Mr Tester.

In determining whether his conduct was dishonest, the panel considered Mr Tester's state of knowledge or belief as to the facts before determining whether his conduct was dishonest by the standards of ordinary decent people.

As regards lack of integrity, the panel recognised that professional integrity denotes adherence to the standards of the profession and the panel therefore considered whether, by his actions, Mr Tester had failed to adhere to those standards.

Mr Tester accepts that he was dishonest and withheld information from his colleagues at the School regarding his social arrangements on 15 August 2019 and did so in order to avoid detection.

Mr Tester admits that he told a series of partial truths and/or lies to both colleagues and Pupil A in order to facilitate a plausible reason as to why he would be in Gloucester on 15 August 2019, in order to enable him to spend time with Pupil A and avoid suspicion by doing so.

In his police interview, Mr Tester is recorded as also admitting that he lied to other teachers to avoid negative staff opinion in respect to him meeting pupils outside of school.

He accepts that he disguised his true intentions and attraction towards Pupil A from his colleagues and that this behaviour lacked integrity and was dishonest.

The panel agreed. It was satisfied that Mr Tester would have appreciated that his behaviour was wrong and unacceptable at the time. It was, therefore, deliberate and Mr Tester was motivated by a desire to conceal his intentions.

In light of the clear evidence before it, the panel was, therefore, satisfied that Mr Tester's conduct was dishonest by the standards of ordinary decent people and displayed a lack of integrity.

The panel therefore found allegations 4 and 5 proved.

6. You failed to take appropriate action and/or ensure appropriate action was taken to safeguard Pupil A in or around the summer term 2019, despite being aware that Pupil A was attracted to you.

Mr Tester admits that, during the 2018/2019 academic year, Pupil A confided in him that she was [REDACTED].

Mr Tester reported to other members of staff, in an informal setting, that Pupil A was “*obsessed*” with the individual in question and that he was concerned such feelings might transfer to him.

He did not disclose any suspicion of Pupil A’s attraction towards him nor did he record a formal safeguarding concern.

On 25 July 2019, the final day of Summer Term, Pupils B and C who were friends of Pupil A, sought out Mr Tester in the school and told him that they believed Pupil A was attracted to him.

Mr Tester accepts that, at this stage, he was also aware of his own attraction to Pupil A. He was flattered by the report of Pupil A's interest and believed it to be true.

Mr Tester failed to take any appropriate action to record or report this to the School or staff or otherwise to take steps to safeguard Pupil A.

This was notwithstanding the fact that Mr Tester continued to have some professional responsibilities towards Pupil A, including on A Level results day.

He also failed to disclose this information when discussing with colleagues the events that occurred with Pupil A on 15 August 2019.

Mr Tester accepts that these actions were deliberate and prevented colleagues taking appropriate actions to safeguard Pupil A.

The panel agreed. It concluded that the evidence before it was consistent with Mr Tester's admissions and found the facts of allegation 6 proved.

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

Having found all of the allegations proved, 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.

Mr Tester admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. Whilst the panel took these admissions into account, it made its own determination.

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

The panel was satisfied that the conduct of Mr Tester in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Tester was 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
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Tester's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

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 found that none of these offences were strictly relevant, though the panel had firmly in mind that the behaviours found proven included dishonesty, which was certainly serious on the basis of the panel's findings, and sexual activity.

In relation to the conduct found proved in allegations 1, 2, 3 and 6, Mr Tester was in a position of responsibility and trust. He was a role model and a professional. He had a duty to adhere to safeguarding requirements. He also had an obligation to treat pupils with dignity, to build relationships rooted in mutual respect and at all times to observe proper boundaries appropriate to his professional position.

Mr Tester's conduct fell very far below what was expected of him in this regard. In the panel's view, no education professional should engage in a sexual relationship with a pupil in this manner, whether or not this took place at the end of the school year.

Various actions on the part of Mr Tester took place directly within the education setting, in terms of his communications with Pupil A and Mr Tester's behaviour in relation to his colleagues and safeguarding matters. Insofar as some aspects of Mr Tester's behaviour took place away from the school environment, and therefore not strictly within the education setting, it still occurred within the dynamics of a teacher/pupil relationship.

Mr Tester accepts that there was an inherent power imbalance in his actions and conduct, which arose from his professional role as a teacher. He accepts that he abused

his position of trust as a teacher and that Pupil A may not have been able to appreciate the power imbalance, which existed between them. The panel agreed.

In relation to allegations 4 and 5, it was also incumbent upon Mr Tester to be open and honest and to act with integrity at all times. In the light of the panel's findings in relation to these allegations, Mr Tester had breached his obligations in this regard and had behaved in a way that was completely unacceptable. His actions were also deliberate.

Accordingly, the panel was satisfied that Mr Tester was guilty of unacceptable professional conduct. His conduct amounted to misconduct of a serious nature, which fell significantly short of the standards expected of the profession, which he accepted.

In relation to whether Mr Tester's actions amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community.

The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way they behave.

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

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

In summary, having found the facts of particulars 1 to 6 proved, the panel further found that Mr Tester'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 and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel 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 and 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 Tester, which involved a failure to maintain professional boundaries, a lack of integrity, dishonesty and conduct of a sexual nature with a pupil, there was a strong public interest consideration in respect of the protection of pupils and other members of the public.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct, such as that found against Mr Tester, were not treated with the utmost seriousness when regulating the conduct of the profession. The public, rightly, expect teachers to maintain appropriate, professional relationships with pupils and to behave with honesty and integrity at all times. These are fundamental tenets of the profession. In that context, the panel considered Mr Tester's actions damaged public confidence in him, as a professional, and the profession as a whole.

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

The panel also considered whether there was a strong public interest consideration in retaining Mr Tester in the profession. No doubt had been cast upon Mr Tester's abilities and he was understood to have a prior good record. However, there was no evidence available as to his prior practise as an educator. In particular, Mr Tester had not presented any character references or testimonials.

In those circumstances, the panel did not consider there was a strong public interest in retaining Mr Tester in the profession.

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

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 Tester.

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 proved.

In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the well-being of pupils;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sexual misconduct, for example, 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 proved 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 appropriate or proportionate.

The panel considered the following mitigating factors were present in this case:

- Mr Tester was an experienced teacher and was understood to have an otherwise good record. There was no evidence that he had been subject to any previous regulatory or disciplinary proceedings. There was no evidence of any prior complaints in relation to his conduct.
- Mr Tester had engaged with the TRA and, ultimately, made full admissions.
- There was evidence, from Mr Tester, that he was going through a particularly testing and very difficult period in his life at the time of these events.
- There was some evidence that Mr Tester had sought some assistance from a counsellor with certain aspects of his behaviour, albeit there was very little evidence available in relation to this.

Weighed against this, the aggravating features in this case were that:

- Mr Tester's actions were deliberate and, to some extent, premeditated. He was not acting under duress.
- Alcohol played a part in Mr Tester's conduct. He had consumed a large quantity of alcohol on the day in question and there was some reference [REDACTED]. However, there was no clear evidence that Mr Tester had [REDACTED].

- He was an experienced teacher who, on his account, had previously made safeguarding disclosures. As such, he ought to have known what was required of him in terms of his duties and responsibilities.
- He had an obligation to act as a role model to pupils and colleagues and he failed in his duties in that regard.
- Mr Tester's actions amounted to a clear breach of the Teachers' Standards.
- Mr Tester had engaged in conduct of a sexual nature with Pupil A.
- He had behaved dishonestly and without integrity.
- Mr Tester had showed only limited insight. For example, there was no reference to what lessons he had learnt and what he would do differently.
- There was limited evidence of regret or remorse, including in relation to the impact on Pupil A. Rather, the focus of his various assertions was, principally, upon himself and his personal circumstances at the time.
- His conduct had an impact upon the School and, most importantly, Pupil A.

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, it would not be a proportionate and appropriate response to recommend no prohibition order.

Recommending that the publication of adverse findings was sufficient, in this case, would unacceptably compromise the public interest considerations present, despite the severity of the consequences for Mr Tester of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate.

The panel decided that the public interest considerations present, as identified above, were particularly strong and outweighed the interests of Mr Tester.

The seriousness and nature of the conduct found proven was a significant factor in forming that opinion. The panel's findings were such that Mr Tester had acted dishonestly and without integrity. He had failed to maintain professional boundaries with pupils. He had engaged in sexual acts with Pupil A and was sexually motivated. His actions were deliberate and, to some extent, premeditated. With reference to Pupil A, Mr Tester had also abused his position of trust. In the panel's view, in these circumstances the nature and severity of the behaviour was at the serious end of the possible spectrum.

Further, the panel considered that Mr Tester's insight into the nature and implications of his actions was very limited. In his various written submissions, Mr Tester's focus was very much on his personal circumstances and he had sought to blame external factors on his actions. He had not, in the panel's view, taken full responsibility for his actions. Whatever was going on in his life at the time, Mr Tester remained responsible for his actions.

There was also limited evidence as to what Mr Tester has done in the period since to remediate his failings. The panel was not presented with any references or testimonials.

In those circumstances, the panel was not satisfied that there was no risk of repetition.

Accordingly, for all these reasons, 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 to recommend that a review period of the order should be considered.

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 proved, would militate against the recommendation of a review period.

These behaviours include serious dishonesty and serious sexual misconduct, such as 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 his professional position to influence or exploit a person or persons.

Given the panel's findings, it considered that these behaviours were relevant in this case. In the panel's view, the dishonesty found proven was serious given it was deliberate and involved Mr Tester lying to fellow professionals and trying to conceal his actions. It therefore went to the heart of the trust placed in him as a professional. In terms of the sexual misconduct, Mr Tester had also abused his position of trust. Mr Tester's behaviour was extremely concerning and at the serious end of the spectrum.

Further, as set out above, Mr Tester had shown very limited insight and little regret or remorse.

The panel did have in mind that prohibition orders should not be given in order to be punitive and it took account of the mitigating factors present.

However, the panel decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provision for a review period.

In summary, having carefully considered all of the circumstances of this case, the panel decided that the findings indicated a situation in which a review period would not be appropriate.

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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Tester 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
 - showing tolerance of and respect for the rights of others
- 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 findings of misconduct are particularly serious as they include a finding of both dishonesty and lack of integrity as well as sexual activity and abuse of his position of trust as a teacher.

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 Tester, 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 Mr Tester's behaviour, "involved a failure to maintain professional boundaries, a lack of integrity, dishonesty and conduct of a sexual nature with a pupil". 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, "Mr Tester's insight into the nature and implications of his actions was very limited. In his various written submissions, Mr Tester's focus was very much on his personal circumstances and he had sought to blame external factors on his actions. He had not, in the panel's view, taken full responsibility for his actions. Whatever was going on in his life at the time, Mr Tester remained responsible for his actions."

The panel also say, "There was also limited evidence as to what Mr Tester has done in the period since to remediate his failings." In my judgement, the lack of insight 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, "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 they behave".

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

I am particularly mindful of the finding of dishonesty and lack of integrity in this case and the finding of abuse of trust 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 Tester himself. The panel comment "The panel was not presented with any references or testimonials."

A prohibition order would prevent Mr Tester 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 said, "Mr Tester had shown very limited insight and little regret or remorse."

I have also placed considerable weight on the finding of the panel that, "the nature and severity of the behaviour was at the serious end of the possible spectrum."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Tester 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 proportionate 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.

The panel say, "Mr Tester had acted dishonestly and without integrity. He had failed to maintain professional boundaries with pupils. He had engaged in sexual acts with Pupil A and was sexually motivated. His actions were deliberate and, to some extent, premeditated. With reference to Pupil A, Mr Tester had also abused his position of trust. In the panel's view, in these circumstances the nature and severity of the behaviour was at the serious end of the possible spectrum."

I have also considered the panel's comments "the dishonesty found proven was serious given it was deliberate and involved Mr Tester lying to fellow professionals and trying to conceal his actions. It therefore went to the heart of the trust placed in him as a professional. In terms of the sexual misconduct, Mr Tester had also abused his position of trust. Mr Tester's behaviour was extremely concerning and at the serious end of the spectrum."

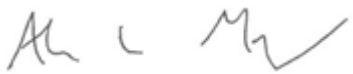
I have considered whether allowing for no review reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, there are factors which mean that allowing for no review is necessary to achieve the aim of maintaining public confidence in the profession. These elements are the finding of dishonesty and lack of integrity, the abuse of trust, the sexual activity and the lack of appropriate remorse or insight.

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 Anu Tester 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 proved against him, I have decided that Mr Anu Tester 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 Anu Tester 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: 23 February 2021

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