



Teaching
Regulation
Agency

Mr Christopher Harper: Professional conduct panel outcome

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

June 2021

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

Teacher: Mr Christopher Harper
TRA reference: 18800
Date of determination: 1 June 2021
Former employer: Kingsdown School, Swindon

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 5 May, 6 May, 14 May and 1 June 2021 by way of a virtual hearing, to consider the case of Mr Christopher Harper.

The panel members were Mr Ian Carter (former teacher panellist – in the chair), Ms Sue Davies (lay panellist) and Mr Gamel Byles (teacher panellist).

The legal adviser to the panel was Mr Robert Kellaway of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Sherelle Appleby of Browne Jacobson LLP solicitors.

Mr Harper was present during the hearing and was represented by Mr Jonathan Storey of Cornwall Street Barristers, instructed by Ms Camilla Gee of the National Education Union (South West Region).

The hearing took place by way of a virtual hearing in public. The hearing was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 1 March 2021.

It was alleged that Mr Harper was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Kingsdown School between 2017 and 2019:

1. He failed to maintain appropriate professional boundaries with pupils including by:
 - a. Disclosing personal information to pupils including but not limited to;
 - i. Informing them of the area he lives in and/or his address;
 - ii. Telling them his age;
 - iii. Informing them of his relationship status;
 - iv. Telling pupils that he was speed dating;
 - v. Informing them that he lived on his own;
 - b. Encouraging them to follow and/or watch his videos on YouTube;
 - c. Allowing pupils to leave comments on his YouTube videos;
 - d. Asking and/or agreeing to pupils making him a Tinder account;
 - e. On or around 8 June 2019 hugging Pupil A and/or Pupil B whilst [redacted];
 - f. Making inappropriate comments regarding the pupils including but not limited to;
 - i. Making the comment “if I marry your mum you can finally call me daddy” or words to that effect;
 - ii. Commenting on pupils’ parents and/or relatives being single;
 - g. Exchanging messages with a pupil’s aunt despite being advised not to do so;
2. He engaged in and/or developed an inappropriate relationship with Pupil C including by:
 - a. Sending a significant number of emails to her school and/or personal email address including but not limited to;

- i. Discussing matters that do not relate to school;
 - ii. Sending emails outside of school hours;
 - iii. Failing to obtain permission from Pupil C's parents to remain in contact with her once she had left the School;
 - b. Failing to disclose that Pupil C may be infatuated with him;
 - c. Singling her out as his favourite student;
 - d. Continuing to send emails to her once she had ceased being a student at the School;
3. In behaving in the manner as may be found proven at Allegation 2 he failed to follow advice given on or around June 2018 which advised him not to keep in contact with Pupil C.

The parties had agreed a statement of agreed and disputed facts in advance of the hearing which Mr Harper had signed on 16 March 2021.

Mr Harper admitted allegations 1.a(iv), 1.e, 1.f(i), 1.g, 2.a, 2.d and 3 in their entirety.

Mr Harper admitted the facts of allegations 1.a(i), (ii), (iii), (v), 1.b, 1.c, and 1.d but Mr Harper denied that he had failed to maintain appropriate professional boundaries with pupils in respect of these allegations.

Mr Harper denied allegations 2.b and 2.c.

Mr Harper made no admissions as to whether his conduct, in respect of any of the allegations, amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Preliminary applications

The panel considered a preliminary application from the teacher's representative for the admission of additional documents.

The teacher's documents were a character testimonial, a signed copy of one of the character references, email confirmation from a character reference and a complete page of one of the witness statements (as the page that had been included in the bundle was incomplete).

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018 (the "Procedures"). Therefore, the panel was required to

decide whether the documents should be admitted under paragraph 4.25 of the Procedures.

The panel heard representations from the teacher's representative in respect of the application and the presenting officer had no objection to the admission of the documents.

The panel considered the additional documents were relevant and would assist the panel in determining the issues in the hearing. Accordingly, the documents were added to the bundle.

Summary of evidence

Documents

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

- Section 1: Notice of proceedings – pages 2 to 11
- Section 2: Statement of agreed and disputed facts – pages 13 to 17
- Section 3: TRA's documents – pages 19 to 166
- Section 4: Teacher's documents – pages 168 to 224.

The panel also agreed to accept the following documents into the bundle:

- Complete witness statement of Witness B – pages 225 to 229
- Character testimonial – pages 230 to 232
- Character testimonial – page 233
- Signed copy of character testimonial previously provided – pages 234 to 236
- Mr Harper's training certificates – pages 237 to 238
- Signed copy of character testimonial previously provided – pages 239.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the panel read the additional documents during the course of the hearing as they were admitted to the bundle.

Witnesses

The TRA called the following witnesses to give oral evidence at the hearing:

- Witness A [redacted].
- Witness B [redacted].

The teacher's representative called the following witnesses to give oral evidence at the hearing:

- Mr Harper.
- Witness C [redacted] (who gave evidence at the sanction stage of the hearing).

Decision and reasons

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

Mr Harper had been a modern foreign languages teacher at Kingsdown School ("the School"), a mixed 11-16 school. Mr Harper had joined the School as a newly qualified teacher on 1 September 2017.

On 9 June 2018, Mr Harper emailed Witness B to ask her about contacting Pupil C, [redacted]. Mr Harper explained that he '*would want to know how she is getting on and keep her practicing her German...*'. On or around 13 June 2018, a conversation took place between Mr Harper and Witness B in relation to Mr Harper's question.

A year later, over the weekend of 8 June and 9 June 2019, a group of students from the School took part in a [redacted]. Mr Harper was one of the teachers who supervised the students over the weekend. On or around 8 June 2019, an informal concern was raised regarding Mr Harper's conduct on the trip. The School commenced an investigation into Mr Harper's conduct.

On 20 June 2019, a group of Year 8 pupils made various allegations about Mr Harper's comments during lessons.

On 21 June 2019, the School discovered that Mr Harper had exchanged a large number of emails with Pupil C. The School also investigated this matter. Mr Harper's explanation to the School was that the emails had been so that Pupil C could improve her German and he had offered this opportunity to other pupils.

On 18 July 2019, Mr Harper was dismissed by the School. On 19 September 2019, following an appeal, Mr Harper's dismissal was upheld and his last day of employment was 31 December 2019.

The School referred Mr Harper's case to the TRA on or around 15 October 2019.

Findings of fact

The panel's findings of fact on each of the allegations are as follows:

- 1. You failed to maintain appropriate professional boundaries with pupils including by:**
 - a. Disclosing personal information to pupils including but not limited to;**
 - i. Informing them of the area you live in and/or your address;**
 - ii. Telling them your age;**
 - iii. Informing them of your relationship status;**
 - iv. Telling pupils that you were speed dating;**
 - v. Informing them that you lived on your own;**

The panel noted that in the statement of agreed and disputed facts, which Mr Harper had signed on 16 March 2021, Mr Harper had admitted the facts of allegations 1.a (i), (ii), (iii), (iv) and (v). In respect of allegation 1.a(iv), Mr Harper accepted he had failed to maintain appropriate professional boundaries with pupils but denied he had done so in respect of allegations 1.a(i), (ii), (iii) and (v).

Mr Harper explained to the panel that he had disclosed the personal information in allegation 1.a in the context of modern foreign language lessons and whilst speaking a foreign language.

In respect of allegation 1.a(i), the panel heard from Mr Harper that he had told pupils he lived in [redacted] but had not informed pupils of his actual address. The panel saw no issue with this. There was no evidence put to the panel and no submission made to the panel that Mr Harper had provided pupils with his address details.

The TRA's witness, Witness A, corroborated Mr Harper's submissions that it was not unusual for a foreign language teacher to state their age and give general details about where they lived when teaching foreign languages. The panel agreed and did not think disclosing such details was unusual or untoward.

Mr Harper accepted that it was inappropriate of him to inform pupils he was speed dating at the weekend when teaching foreign languages to pupils. The panel agreed and found that Mr Harper had failed to maintain appropriate professional boundaries in disclosing to Year 11 pupils that he was going to go speed dating at the weekend.

Mr Harper accepted that he had said he lived on his own to the pupils more than twice but explained he had been teaching pupils how to say who they lived with. Again, the

panel did not consider this a breach of a professional boundary for a foreign languages' teacher.

The panel considered evidence within the bundle from one pupil that Mr Harper had stated that he lived on his own 'a lot'. However, the panel did not consider that the pupil's evidence was particularly credible when other comments were taken into account. It also gave less weight to that pupil's evidence given it had not had an opportunity to ask questions of that pupil's evidence at the hearing.

In summary, in respect of allegation 1.a, the panel did not find that Mr Harper had failed to maintain appropriate professional boundaries with pupils in respect of allegation 1.a(i), (ii) (iii) and (v) but did find that he had done so in relation allegation 1.a(iv).

b. Encouraging them to follow and/or watch your videos on YouTube;

c. Allowing pupils to leave comments on your YouTube videos;

Mr Harper admitted he had encouraged pupils to follow his personal YouTube channel and watch the videos he uploaded to his YouTube channel. Mr Harper explained that a member of the School's senior leadership team had a YouTube video channel for educational purposes and had encouraged Mr Harper to set up his own.

Mr Harper informed the panel that when he started using his personal YouTube channel for educational purposes, the channel still had some personal non-educational related content, which Mr Harper had previously uploaded on the channel from before he became a teacher.

Mr Harper admitted he had allowed pupils to view those personal videos when they had asked him to during a lesson. Mr Harper accepted he should not have allowed the pupils to watch the personal videos in his lesson. Mr Harper explained the videos had included songs for friends and about a video game and there had been a picture of him drinking alcohol.

The panel determined that Mr Harper had failed to maintain appropriate professional boundaries in allowing the pupils to watch these personal videos.

In respect of allegation 1.c, Mr Harper had unintentionally permitted pupils to leave comments on his YouTube videos. Mr Harper had removed the comment function when he became aware that it was accessible by students.

The panel was not provided with any evidence that inappropriate comments had been made on the YouTube channel. However, the panel considered that inappropriate comments could have been left. The panel determined that Mr Harper had not maintained appropriate professional boundaries in allowing pupils to leave comments.

The panel found the facts of allegations 1.b and 1.c proved.

d. Asking and/or agreeing to pupils making you a Tinder account;

Mr Harper denied he asked pupils to make him a Tinder account. Mr Harper accepted a pupil had suggested the pupils set up a Tinder account for him and he had laughed and had stated "*that would be great, thank you*" as a throwaway comment.

The panel considered the evidence of a pupil provided during the School's investigation which suggested Mr Harper had continually asked pupils to set him up with a Tinder account. The panel noted that the pupil was not present at the hearing and the panel were not able to question her on her comments. The panel gave this pupil's evidence little weight after considering the notes of the investigation meeting as it considered it was more likely than not that the pupil had exaggerated Mr Harper's comments.

The panel considered that Mr Harper could have dealt with the situation differently but did not consider he had failed to maintain appropriate professional boundaries in making this flippant comment.

The panel found allegation 1.d not proved.

e. On or around 8 June 2019 hugging Pupil A and/or Pupil B whilst [redacted];

The panel noted that Mr Harper admitted the facts of allegation 1.e and admitted that this conduct amounted to a failure to maintain professional boundaries.

The panel considered the evidence of the context of the hug Mr Harper had given to Pupil A and Pupil B. The panel heard Mr Harper had hugged Pupil A to try and calm her down as she had been upset. Mr Harper had hugged Pupil B after Pupil B had seen Mr Harper hug Pupil A and he requested a hug from Mr Harper. The hug of Pupil B had intended to be a light-hearted gesture.

The panel was concerned that Mr Harper had chosen to state to Pupil A two days after the hug that "*there was nothing in it*" in order to try and make clear to Pupil A that it had been a supportive hug. The panel separately considered that had been a poor choice of words by Mr Harper.

Mr Harper accepted that it was inappropriate to hug pupils, and he had made a mistake in hugging the pupils and it had been a breach of professional boundaries. The panel agreed.

Whilst the panel believed Mr Harper was well intentioned in hugging Pupil A and Pupil B, the panel considered it had been inappropriate for him to hug the pupils and he had not maintained an appropriate professional boundary.

The panel found allegation 1.e proved.

- f. Making inappropriate comments regarding the pupil(s) including but not limited to;**
 - i. Making the comment “if I marry your mum you can finally call me daddy” or words to that effect;**
 - ii. Commenting on pupil(s)’ parents and/or relatives being single;**

Mr Harper admitted the facts of this allegation and admitted his conduct amounted to a failure to maintain professional boundaries.

The panel heard from Mr Harper that during a Year 8 class, a pupil had stated another pupil’s mother was single and Mr Harper had replied along the lines of “oo is she” and had subsequently made the comment at allegation 1.f(i). Mr Harper explained he had intended the comments to be a joke and that his comment at allegation 1.f(i) had been a reference to the TV show, ‘The Inbetweeners’.

The panel noted the evidence within the bundle that the pupil subject to the comment had been upset by it. The panel found this unsurprising given the personal and offensive nature of the comment which had been made at the pupil’s expense and had been an inappropriate comment to make to any pupil.

The panel found Mr Harper’s comment at allegation 1.f(i) had been inappropriate and Mr Harper had crossed the line of maintaining appropriate professional boundaries. Accordingly, allegations 1.f(i) and (ii) were proved.

- g. Exchanging message(s) with a pupil’s aunt despite being advised not to do so;**

Mr Harper admitted the facts of this allegation and accepted it amounted to a failure to maintain professional boundaries.

Mr Harper had received a Valentine’s Day card from a pupil’s aunt who he had met at a parents’ evening. Witness A stated she had counselled Mr Harper that if she was in Mr Harper’s shoes, she would not contact the aunt. The panel heard there had been a brief exchange of text messages between Mr Harper and the aunt following the card.

Although the panel noted that the text messages stopped on the day the text exchange commenced, the panel considered Mr Harper had failed to maintain appropriate professional boundaries in engaging in the text conversation with the aunt of a pupil who had given him a Valentine’s Day card.

The panel found allegation 1.g proved.

- 2. You engaged in and/or developed an inappropriate relationship with Pupil C including by;**

- a. Sending a significant number of emails to her school and/or personal email address including but not limited to;**
 - i. Discussing matters that do not relate to school;**
 - ii. Sending emails outside of school hours;**
 - iii. Failing to obtain permission from Pupil C's parents to remain in contact with her once she had left the School;**

Mr Harper had admitted the facts of allegations 2.a(i)-(iii) and that this amounted to him engaging in and developing an inappropriate relationship with Pupil C.

The panel noted that the email exchange between Pupil C and Mr Harper had started after Mr Harper had offered pupils the opportunity to email him in a foreign language and he would reply in the foreign language as a method of improving their foreign language skills. Only Pupil C took Mr Harper up on this offer.

[Redacted]

Around 2,579 emails had been sent between Mr Harper and Pupil C around the period of November 2017 and June 2019. Mr Harper had sent around 898 emails to Pupil C and Pupil C had sent around 1,681 emails to Mr Harper during this period. Mr Harper did not dispute the School's analysis of the number of emails sent between himself and Pupil C or the analysis of the time of day at which the emails had been sent. The panel had no good reason to doubt the analysis.

Around 1,863 emails had been sent between Pupil C and Mr Harper between November 2017 and the end of June 2018 and 716 emails between July 2018 and June 2019.

A selection of the email exchanges were included in the bundle. Even this small selection of emails evidenced that numerous emails had been exchanged whilst Pupil C had been a pupil at the School and after she had left the School.

Mr Harper and Pupil C had exchanged emails at various times of the day, with the most frequent contact occurring between 7:00pm and 10:00pm and in particular between 8:00pm and 9:00pm. A significant number of emails had been sent as late as midnight and in the early hours of the morning. The panel noted evidence within the bundle that Mr Harper and Pupil C had exchanged emails late at night.

The panel heard oral evidence from Witness B who had reviewed all of the 2,579 emails sent between Pupil C and Mr Harper. Witness B used Google Translate to translate the emails which were in German to English. There were few emails exchanged in English, but the vast majority were in German. Witness B informed the panel that when reviewing the emails, she had noted emails had been sent outside of school hours with a lot of

emails being sent late at night. Witness B considered that the emails contained personal information and were overly familiar in content.

The panel reviewed the selection of emails which were contained in the bundle and agreed that these emails had contained personal information and had been overfamiliar including numerous details of what Mr Harper was doing in his personal life and details of his previous employment history.

However, the panel saw no evidence within the email exchanges disclosed that Mr Harper had any malicious or inappropriate motivations towards Pupil C. There was no evidence or suggestion that Mr Harper and Pupil C had shared any correspondence outside of these email exchanges or ever met up outside of school.

The panel heard from Mr Harper that initially Pupil C's mother had not been copied into the emails between Mr Harper and Pupil C when Pupil C had still been a pupil at the School. The panel was concerned to hear this given the huge numbers of emails which were being exchanged between Pupil C and Mr Harper at this time. The panel was also concerned that Mr Harper had not informed any other teachers of the extent of his email exchanges with Pupil C even though there were many opportunities to do so.

Mr Harper sent an email to Pupil C's mother on 3 July 2018 asking if he could continue to contact Pupil C. Mr Harper did not receive a reply to that email. Mr Harper had copied in Pupil C's mother to his email exchanges with Pupil C in early July 2018 ([Redacted]). The panel heard from Mr Harper that Pupil C's mother did not speak German and would not have understood the contents of the emails between Pupil C and Mr Harper which she had been copied in on, without the aid of a translator or a translation tool.

The email address being copied into the email exchanges between Pupil C and Mr Harper after she left school was subsequently altered in later correspondence. The panel determined it was more likely than not that Pupil C had made this change in order to remove her mother from the email exchanges. The panel accepted Mr Harper had not noticed this change.

Mr Harper provided no evidence that he had sought to follow up or check with Pupil C's parents that they were happy for him to continue to email their daughter after she had left school.

Having considered the evidence the panel determined that Mr Harper had not obtained permission from Pupil C's parents to remain in contact with Pupil C after she had left the School.

The panel found allegation 2.a(i)(ii) and (iii) proved.

b. Failing to disclose that Pupil C may be infatuated with you;

Mr Harper denied this allegation. Mr Harper accepted during the course of the hearing that with hindsight he should have realised that Pupil C may have been infatuated with him. Mr Harper maintained that at the time of the email exchanges he did not think Pupil C was infatuated with him which was why he did not disclose this to the School or to Pupil C's parents.

The panel determined there was evidence from the huge number of emails sent from Pupil C to Mr Harper that it was more likely than not that Pupil C had been infatuated with Mr Harper. Further, the panel considered Mr Harper should have been aware of and alive to this. The panel found there were numerous examples of evidence in which Pupil C was searching for approval from Mr Harper and took an excessive interest in his affairs. By way of example, the panel noted the following emails from Pupil C to Mr Harper on one day [translated into English below but originally written in German]:

- 17 April 2018 at 16:32 *"I can't express how thankful I am. You are very fantastic and super. German is my Lieblingsfache [favourite subject], because you teach it. That what really helpful and encouraging and I am grateful that you gave up your own personal time to help me [sic]."*
- 17 April 2018 2018 at 19:19 *"I know it's a bit late now, but I noticed you didn't have your bag when you were walking to your car. Were you meant to? No."*
- 17 April 2018 at 20:55 *"Apologies for keep mentioning it but I cried (inside) when you told me from her [your] previous experience [sic]."*

On examination of all the evidence, the panel was satisfied that Mr Harper should have disclosed to the School and Pupil C's parents that Pupil C may have been infatuated with him. The panel considered that it had absolutely been Mr Harper's responsibility to be alive to this as the teacher but he had failed in meeting this responsibility. The panel considered that Mr Harper's failure to disclose that Pupil C may be infatuated with him had the knock on effect of allowing the inappropriate relationship with Pupil C to continue both whilst she was a pupil and after she left the School.

The panel found allegation 2.b proved.

c. Singling her out as his favourite student;

The panel's attention was brought to a single email of 9 June 2018 at 00:00 in which Mr Harper referred to Pupil C as his favourite student. However, no other evidence was presented to the panel that Mr Harper singled out Pupil C as his favourite student.

On the evidence presented, the panel was not convinced that Mr Harper had singled out Pupil C as his favourite student. The panel found allegation 2.c not proved.

d. Continuing to send emails to her once she had ceased being a student at the School;

Mr Harper admitted allegation 2.d.

Mr Harper continued to send emails to Pupil C after she had left Year 11. Given Mr Harper had been Pupil C's teacher, and the imbalance of power in the teacher and pupil relationship, the panel determined that it had been wholly inappropriate for Mr Harper to continue to send Pupil C emails after she had left the School, particularly as he had been advised not to do so by a more senior colleague.

The panel found allegation 2.d proved.

3. In behaving in the manner as may be found proven at allegation 2 you failed to follow advice given on or around June 2018 which advised you not to keep in contact with Pupil C.

Mr Harper accepts he was provided with advice on or around June 2018 regarding keeping in contact with Pupil C from Witness B. Mr Harper submitted he had understood the advice as contact with pupils after they had left was not encouraged but was not banned.

As already mentioned, Mr Harper did not disclose to Witness B the extent of the email exchange which had already occurred with Pupil C.

The panel heard evidence from Witness B that this had not been the advice she had given to Mr Harper and she emphatically discouraged Mr Harper from maintaining contact with Pupil C. The panel found Witness B to be a credible witness. Mr Harper accepted that it was likely that he had heard what he wanted to hear from Witness B when he asked about keeping contact with Pupil C and should have taken her 'no' as a 'no'.

The panel found allegation 3 proved.

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

Having found the facts of allegations 1.a(iv), 1.b, 1.c, 1.e, 1.f, 1.g, 2.a(i)-(iii), 2.b, 2.d and 3 proven, the panel went on to consider whether the facts of the proven allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

The panel did not consider that Mr Harper's conduct in allegations 1.a(iv), 1.b, 1.c, 1.e, 1.f, 1.g fell significantly short of the standards expected of the profession. The panel considered the Teachers' Standards in making this assessment and determined that Mr Harper's actions in respect of these allegations did not amount to conduct of a sufficiently serious nature to constitute unacceptable professional conduct.

In terms of Mr Harper's proven conduct in relation to allegation 1, the panel considered that Mr Harper as a newly qualified teacher had been extremely naïve and lacking in sound judgement and he had failed to maintain professional boundaries. However, the panel did not consider his conduct in relation to allegation 1 reached the level of unacceptable professional conduct.

Mr Harper's informing pupils he had been speed dating whilst teaching foreign languages had been naïve and was an example of Mr Harper oversharing with pupils and not ensuring that professional boundaries were maintained. However, the panel did not consider it to be unacceptable professional conduct.

Mr Harper allowing the pupils to watch personal YouTube videos was ill advised but it was not misconduct of a serious nature. Neither was his mistake of allowing pupils to leave comments on the YouTube channel.

The panel did not think that hugging a pupil in a display of compassion and then immediately hugging another pupil to defuse the tension about a pupil being upset amounted to unacceptable professional conduct.

Mr Harper's behaviour in respect of allegation 1.f had been inappropriate. However, the panel did not consider this one off comment to reach the level of unacceptable professional conduct.

Mr Harper's behaviour in respect of allegation 1.g had been naïve and he should have listened to his colleagues. However, the text exchange was extremely brief and quickly ended. Mr Harper had once again shown poor judgement as an inexperienced teacher, but the panel did not consider this to constitute an act of unacceptable unprofessional conduct.

The panel was satisfied that the conduct of Mr Harper, in relation to allegations 2.a, 2.b, 2.d and 3 involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Harper 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Harper in respect of allegations 2.a, 2.b, 2.d and 3 amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel considered that it had been completely inappropriate for Mr Harper to engage in the level of emails exchanged that he did with Pupil C, which took place whilst she had been a Year 11 student and after she had left the School. The panel found the extent of the email exchange between Pupil C and Mr Harper to be staggering. Mr Harper should have been fully aware that the extent of the email exchange was wholly inappropriate, and the tone of the emails was overfamiliar.

It was Mr Harper's responsibility as a qualified teacher to have the wellbeing of Pupil C in the forefront of his mind. He may have had improving Pupil C's German skills in his mind and helping a pupil but that should not have clouded his judgement. Mr Harper lacked forethought and judgement about the impact the email exchanges could have had on Pupil C's welfare.

Mr Harper, as a qualified teacher, had responsibility for ensuring that at all times he observed appropriate professional boundaries, particularly where there is an inherent imbalance of power between the teacher and the pupil. However, in exchanging around 2,579 emails with Pupil C between November 2017 and June 2019, which contained overfamiliar content and personal information, he failed to maintain appropriate professional boundaries.

Mr Harper had numerous opportunities to check with colleagues and Pupil C's parents as to whether he was following an appropriate course of action but his efforts to do so were minimal. Moreover, when he did seek guidance, he did not provide his colleague with the full picture and did not follow their advice. Mr Harper ignored the advice of his colleague on an important safeguarding issue which if he had been alive to key tenets of his teaching responsibilities could have been prevented.

The panel also considered whether Mr Harper'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 more likely to conclude that an individual's conduct would amount to unacceptable professional

conduct. The panel did not consider that Mr Harper's conduct displayed any such behaviour.

Although the panel noted that elements of allegations 2 and 3 took place outside the education setting in that the email exchanges took place outside of school hours and after a pupil had left the School, the panel concluded that this did not prevent a finding of unacceptable professional conduct.

In summary, in terms of unacceptable professional conduct, the panel was satisfied that Mr Harper was guilty of unacceptable professional conduct in respect of allegations 2.a, 2.b, 2.d and 3.

The panel went on to consider whether Mr Harper's conduct in respect of the proven allegations was such that it may bring the teaching 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 that they behave.

The panel did not consider the findings of misconduct to be serious in respect of allegations 1.a(iv), 1.b, 1.c, 1.e, 1.f, 1.g. It did not consider that the conduct displayed was of the level that would be likely to have a negative impact on the individual's status as a teacher or would potentially damage the public perception.

The findings of misconduct in respect of allegations 2.a, 2.b, 2.d and 3 are 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. Members of the public would be rightly concerned if they were aware of the number of emails which Mr Harper exchanged with Pupil C and the times at which those emails were sent.

The panel considered that the actions of Mr Harper fell short of what the public would expect or tolerate of a teacher. Accordingly, the panel considered that Mr Harper's proven actions may bring the profession into disrepute.

In summary, the panel found that Mr Harper's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute in respect of allegations 2.a, 2.b, 2.d and 3.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it 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.

The panel was mindful that 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. The panel also considered the public interest consideration of retaining the teacher in the profession.

In the light of the panel's findings against Mr Harper which involved engaging in and developing an inappropriate relationship with a pupil (who then became a former pupil), there was a public interest consideration in respect of the protection of pupils and other members of the public. However, the panel considered this public interest consideration was limited in this case. The panel had found that Mr Harper had been extremely naïve and had exercised poor judgement in relation to his interactions with Pupil C. Yet, the panel found no evidence, and no evidence was presented to it, that Mr Harper's motivations in engaging in extensive email correspondence with Pupil C had been motivated by anything other than an attempt to develop Pupil C's language skills and pass on his enthusiasm for the German language.

Having taken this into account and reflected on Mr Harper's clear insight and remorse for his actions (also referred to below), the panel believed the risk of Mr Harper engaging in such a naïve and misjudged course of conduct again was extremely low.

The panel did consider that public confidence in the profession could be weakened if conduct such as that found against Mr Harper was not treated seriously when regulating the conduct of the profession.

The panel was of the view that there was a public interest consideration in declaring proper standards of conduct in the profession as the conduct found against Mr Harper was outside that which could reasonably be tolerated. However, the panel considered that in the circumstances of this case the public interest consideration would be sufficiently and appropriately met by a published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute and no further sanction was required in order to achieve this.

The panel decided that there was also a public interest consideration in retaining Mr Harper in the profession. The panel considered Mr Harper, as a new teacher, showed a clear enthusiasm for the teaching profession and potentially had the skills and knowledge required to be a good teacher. The panel considered Mr Harper may well be able to make a valuable contribution to the profession as a modern foreign language teacher in the future.

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 Harper.

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 Harper.

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. The panel did not find any of the behaviours listed in the Advice to be relevant in these circumstances.

The panel considered that Mr Harper's proven actions of unacceptable professional conduct and conduct that may bring the profession into disrepute had departed from the personal and professional conduct elements of the Teachers' Standards but had not been a serious departure. Moreover, the panel considered the proven misconduct to be at the less serious end of the scale.

Even though some of the behaviour found proved in this case indicated that a prohibition order could be appropriate, the panel went on to consider the mitigating factors. The panel took note that mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel considered that Mr Harper's actions had not been deliberate in terms of engaging in an inappropriate relationship with Pupil C. His focus was on developing Pupil C's language skills without regard to the volume of the emails and how they would be perceived by others. While there had been a great deal of naivety in his actions the panel considered Mr Harper has deliberately ignored the advice of a more senior colleague. His inexperience as a teacher was by no means an excuse for his actions which were serious, but the panel considered it had been a contributing factor.

There was no evidence to suggest Mr Harper was acting under duress.

The panel noted that Mr Harper had a previously good professional record, albeit a short one given his limited experience.

The panel took careful note of the positive character evidence submitted on behalf of Mr Harper, which demonstrated that he was well regarded professionally and personally in his career to date. In particular, the panel noted the following statements:

- Individual D [Redacted]
 - *“At no point during my interactions with Chris have I had any reason to doubt his integrity. His passion for languages and for teaching is clear.”*
 - *“Overall, at the end of the course my colleagues and I agreed that Chris’ professional work met the ‘outstanding’ criteria in the UCET / NASBTT guidance.”*
 - *“I am confident that he has the potential to become an outstanding teaching of languages and believe that there is much he can offer the profession.”*

- Individual E [Redacted]
 - *“When working with Chris, I knew him to be a kind and dedicated individual who would go above and beyond helping his students. He would often dedicate his personal time to promoting the learning of disadvantaged students through intervention sessions or offer extra-curricular clubs (such as chess club) which would not otherwise be offered as opportunities to students at the School.”*
 - *“Chris would regularly aim to promote student learning of language both within and beyond his lessons. This may for instance include promoting French or German literature which aimed to help promote student understanding of their subject.”*

- Individual F [Redacted]
 - *“I believe Chris is a benefit to teaching, he is diligent and wants the best for his pupils.”*
 - *“I would say that Chris was naïve in nature, something not helped by the poor steering from the safeguarding which is something still happening to this day [sic].”*

- Individual G [Redacted]
 - *“During the placement there were no recorded concerns about Chris’ professionalism; indeed I considered him a committed and enthusiastic teacher, who with a little more planning and rigour was likely to bring about excellent learning for the pupils in his care.”*

Mr Harper had clearly reflected deeply on his actions in the two years that had preceded this professional conduct panel hearing. Mr Harper communicated to the panel his remorse for his actions and the panel found his remorse to be both genuine and sincere.

Mr Harper displayed to the panel a clear awareness of why his conduct had been wrong and what course of action he should have taken in order to protect pupils and himself.

Mr Harper also displayed insight into why he had made such poor decisions and what he needed to do differently to make sure he never made such poor decisions again if he was to return to teaching. The panel did not consider Mr Harper would gain any further insight to that which he has acquired over the course of the last two years by being prohibited from teaching (even if that prohibition was for a minimum period of time).

The panel heard the steps which Mr Harper had taken to safeguard against him making such naïve and inappropriate decisions in the future which included: the need to discuss matters with and follow the guidance of more experienced and senior colleagues; reviewing extensively national safeguarding guidance; reflecting on and discussing actions with fellow members of the profession; and undertaking further pupil behaviour management training and safeguarding training.

Recommendation

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 be both a proportionate and an appropriate response.

Given that the nature and severity of the behaviours were at the less serious end of the possible spectrum and having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute in respect of allegations 2.a, 2.b, 2.d and 3. In this case, the panel has found some of the allegations not proven, and found that some allegations do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

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

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

The panel finds that the conduct of Mr Harper fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have

considered therefore whether or not prohibiting Mr Harper, 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, “Mr Harper displayed to the panel a clear awareness of why his conduct had been wrong and what course of action he should have taken in order to protect pupils and himself.”

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Mr Harper had clearly reflected deeply on his actions in the two years that had preceded this professional conduct panel hearing. Mr Harper communicated to the panel his remorse for his actions and the panel found his remorse to be both genuine and sincere”. 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, “In the light of the panel’s findings against Mr Harper which involved engaging in and developing an inappropriate relationship with a pupil (who then became a former pupil), there was a public interest consideration in respect of the protection of pupils and other members of the public. However, the panel considered this public interest consideration was limited in this case. The panel had found that Mr Harper had been extremely naïve and had exercised poor judgement in relation to his interactions with Pupil C. Yet, the panel found no evidence, and no evidence was presented to it, that Mr Harper’s motivations in engaging in extensive email correspondence with Pupil C had been motivated by anything other than an attempt to develop Pupil C’s language skills and pass on his enthusiasm for the German language.”

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 Harper himself and the panel commented “Mr Harper had a previously good professional record, albeit a short one given his limited experience” and “The panel took careful note of the positive character evidence submitted on behalf of Mr Harper, which demonstrated that he was well regarded professionally and personally in his career to date.”

A prohibition order would prevent Mr Harper from teaching. A prohibition order 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 insight and remorse. The panel has said, "Mr Harper also displayed insight into why he had made such poor decisions and what he needed to do differently to make sure he never made such poor decisions again if he was to return to teaching. The panel did not consider Mr Harper would gain any further insight to that which he has acquired over the course of the last two years by being prohibited from teaching (even if that prohibition was for a minimum period of time)."

For these reasons, I have concluded that the publication of the findings of unacceptable professional conduct and conduct that may bring the profession into disrepute is proportionate and in the public interest.

A handwritten signature in black ink, appearing to read 'SABuxcey'.

Decision maker: Sarah Buxcey

Date: 7 June 2021

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