



National College for
Teaching & Leadership

Ian John Howard: Professional Conduct Panel outcome

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

February 2015

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Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mr Ian John Howard
Teacher ref no:	8659560
Teacher date of birth:	21/09/1963
NCTL Case ref no:	0010947
Date of Determination:	27 February 2015
Former employer:	Swindon Academy

A. Introduction

A professional conduct panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 24, 25, 26 and 27 February 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Ian John Howard.

The Panel members were Mr John Pemberton (Teacher Panellist) – in the Chair), Ms Jean Carter (Lay Panellist) and Ms Nicolé Jackson (Lay Panellist).

The legal adviser to the Panel was Mr Peter Shervington, of Eversheds LLP, Solicitors.

The presenting officer for the National College was Mr Andrew Hurst of Counsel.

Mr Howard was present and was represented by Mr Ian Scott of the union ATL.

The hearing took place in public and was recorded.

B. Allegations

The Panel considered the allegations set out in the Notice of Proceedings dated 2 October 2014.

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

1. He used and/or demonstrated towards Pupils on the dates set out in Schedule A (attached to the Notice of Proceedings):
 - a. inappropriate physical force; and/or
 - b. excessive force; and/or
 - c. intimidating behaviour: and/or
 - d. derogatory comments;
2. By his conduct set out in paragraph 1 above he thereby:
 - a. demonstrated a repeated pattern of behaviour;
 - b. failed over time to alter and/or correct his behaviour appropriately and/or sufficiently;
3. Following an incident with Pupil L on 25 June 2013, he failed to provide a true and accurate account of his encounter with Pupil L, in that he misrepresented in a Serious Incident Record the reasons why he had become involved with Pupil L that day, by claiming in effect his agreement at the behest of a member of staff to become involved, when no such request had been made of him nor had such offer been made by him;
4. His actions in paragraph 3 above were:
 - a. misleading;
 - b. dishonest, in that he intentionally sought falsely to excuse and /or explain his involvement knowing:
 - i. there was no requirement and/or justification for his involvement; and/or
 - ii. he at the time considered himself possibly prohibited from involvement in such circumstances.

Mr Howard confirmed at the outset of the hearing that he denied both the facts and that they amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

C. Preliminary applications

The Panel considered applications from the Presenting Officer that Pupil L and Witness D should give evidence by video link. There was no objection from Mr Howard's representative and, having taken legal advice, the Panel determined that it was appropriate for Pupil L's evidence and that of Witness D to be given by video link. Directions were given accordingly.

D. Summary of evidence

Documents

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

Section 1	Chronology and Anonymised Pupil List	pages 2-6
Section 2	Notice of Proceedings and Response	pages 7-15
Section 3	NCTL Witness Statements	pages 16-69
Section 4	NCTL Documents	pages 70-420
Section 5	Teacher Documents	pages 421-464

In addition, the Panel agreed at the hearing to accept CCTV images, added at pages 284 a-m of the bundle. These had previously been served on Mr Howard.

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

Witnesses

The panel heard oral evidence from the following witnesses on behalf of the NCTL:

- Witness A – former Principal of the Swindon Academy
- Witness B – a teacher at Swindon Academy
- Witness C – Assistant Principal of Swindon Academy
- Witness D – Principal at Swindon Academy
- Pupil L – a pupil at Swindon Academy

Mr Howard himself also gave evidence.

E. Decision and reasons

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing, as well as the CCTV images accepted during the hearing.

Mr Howard had been employed as a teacher at Headlands Secondary School since 1987. He remained there when it became Swindon Academy in 2007 and until he was

dismissed in 2013. It was alleged that at various times between 1991 and 2013 he had acted towards pupils with inappropriate/excessive force, intimidating behaviour and/or with derogatory comments. It was alleged that his actions demonstrated a repeated pattern of behaviour and that he failed over time to alter or to correct that behaviour appropriately and/or sufficiently. It was also alleged that he had given an inaccurate account of an encounter with Pupil L in 2013 and that he had misled and been dishonest.

Findings of Fact

We now set out our findings of fact, taking each allegation in turn.

1. You used and/or demonstrated towards Pupils on the dates set out in Schedule A:
 - a. inappropriate physical force; and/or
 - b. excessive force; and/or
 - c. intimidating behaviour: and/or
 - d. derogatory comments;

The Panel considered each incident in turn:

Pupil A – 4 May 1991

The Panel did not hear from any witness who was able to recall this incident. The evidence put forward to support the allegation comprised limited documentation (page 72) identifying the allegation that Pupil A was hit on the head by Mr Howard, and recording Mr Howard's response that he had clipped Pupil A on the head with papers.

Mr Howard could not recollect this incident. The Panel is not surprised by this: it relates to events 23 years ago. On the balance of probabilities, taking into account the limited contemporaneous documentation available and the very substantial passage of time, the Panel is not satisfied that any aspect of Allegation 1 is proven in respect of Pupil A.

Pupil B – 3 October 1994

The Panel did not hear from any witness who was able to recall this incident. There was an internal school document (page 74-77) which identified a complaint that physical contact of an unspecified nature had occurred and that there had been a subsequent meeting between Mr Howard and the pupil's parents which was said to have exacerbated the situation.

Another document (page 78), described as 'notes for discussion with Mr Howard', included the statement 'Issue formal oral warning'. However there was no evidence before the Panel to positively identify that a warning had in fact been given.

Mr Howard stated in his oral evidence that he vaguely remembered an incident but did not recall the details either of the events or the follow up. He did not recall receiving a warning, or having a discussion on the subject.

Again, the Panel considers that it must take into account the very substantial passage of time since the events occurred. It cannot blame Mr Howard for not recalling the events, particularly when no evidence has been put forward to show any formal outcome. On that basis the Panel is not satisfied that Allegation 1 is found proven in relation to Pupil B.

Pupil C – 24 September 1996

No witness was able to give direct evidence of this incident, which was said to have involved Mr Howard 'prodding' Pupil C with a finger. The report adduced at page 80 identifies that Mr Howard denied touching Pupil C but accepted that he might have frightened her.

Mr Howard had no recollection of the incident or the follow up to it. Again, this event occurred a very long time ago. Something appears to have frightened the child, but the Panel does not consider there to be sufficient evidence to find Mr Howard at fault. Allegation 1 is therefore not proven on the balance of probabilities in respect of Pupil C.

Pupil D – 14 November 1996

No witness gave direct evidence in relation to this incident. The Panel was referred to an incident report at page 82 which identifies a complaint that Mr Howard 'pushed [Pupil D] up against a wall'. Mr Howard is recorded as having stated that he pulled Pupil D back by the bag after Pupil D pushed others in a queue.

Giving oral evidence, Mr Howard had no recollection of the incident or the follow up to it. Given the statement by Mr Howard included in the incident report, the Panel is on balance satisfied that Mr Howard did pull the child by his bag. However, the Panel has been given insufficient context to conclude that this behaviour fulfilled any of the aspects a-d identified in Allegation 1. The Allegation is therefore found not proven in respect of Pupil D.

Pupil E – 11 June 1998

The Panel was referred to an incident report (page 84) submitted by Pupil E which refers to 'everyone pushing' in the dinner queue. Pupil E alleged that Mr Howard pushed him twice, on the second time causing him to fall.

A document at page 85 sets out Mr Howard's account at the time, in which he identified that he had concerns about 'trampling of pupils' in the dinner queue and shouted at

students to stop pushing. He states that Pupil E continued pushing and that 'I was annoyed and pushed him back sharply causing him to fall over'. Mr Howard said that Pupil E then threw a dustbin at him, in response to which he took Pupil E across the hall to isolate him. He later agreed a summary of the incident (page 91) which included reference to Mr Howard pushing Pupil E twice. Other accounts referred to Mr Howard having 'frogmarched' Pupil E away from the incident (page 88).

Mr Howard, in his oral evidence, confirmed that he did recall this incident. He stated that Pupil E had given the queue "a big shove". Mr Howard said that he pushed the child and asked him "do you realise that's what you've just done?". Mr Howard told the Panel that he had realised it was a mistake and that he did not deal with it in the right way. He accepted that he was angry and that he had responded "roughly". Mr Howard also accepted that the description in relation to the dustbin was 'theatrical' and the dustbin was in fact rolled, rather than thrown at him.

Whilst Mr Howard appeared unwilling in his oral evidence to accept that he had 'frogmarched' the child, nevertheless when confronted with witness statements referring to that term he accepted that "frogmarch" was how it was seen by others and that this was "not the best" way to deal with it and was "inappropriate".

Following a disciplinary hearing on 11 June 1998, (referred to at page 99), Mr Howard was given a formal oral warning, the existence of which is evidenced by documents at pages 94 and 96.

Although Mr Howard might choose a different phrase, the Panel, for its part, is satisfied that Mr Howard did both push and "frogmarch" the pupil, and considers that his actions in relation to this incident involved inappropriate physical and excessive force and were intimidating. The Panel therefore concludes, on the balance of probabilities parts a, b and c of Allegation 1 are proven as regards Pupil E. The Panel does not consider that there is evidence to demonstrate on the balance of probabilities that derogatory comments were made and therefore Allegation 1 d is not proven in respect of Pupil E.

Pupil F – 23 November 2000

The only document evidencing this incident was at page 102 - a letter from Pupil F's mother suggesting that Mr Howard had pulled a chair out from under her child.

Mr Howard's recollection, in oral evidence, was that he went to help another member of staff to remove Pupil F out of the classroom. He asked the pupil to leave, and when the pupil refused he slightly lifted the pupil's chair, which he said was in accordance with training he had received. He said that Pupil F came to her feet, and that was the last he had heard of it. Mr Howard did not consider that his actions were inappropriate.

Whilst in the experience of this Panel the tipping of a chair is not normally considered an appropriate means by which to manage behaviour, the Panel is prepared to accept that Mr Howard had been trained to manage behavioural incidents in this way. On this basis, the Panel finds the allegation not proven in respect of Pupil F.

Pupil G – 17 March 2004

The evidence for this allegation was found in a strategy meeting document at pages 104-105. This records it to have been accepted by Mr Howard that he pulled the child's hand from a door handle.

Under questioning before the Panel, Mr Howard accepted that he had pulled the child's hand from the door handle and that this implied the use of force.

The Panel considers that Mr Howard's actions, whether characterised as pulling or lifting, were unnecessary and amounted to inappropriate physical force. Therefore, on the balance of probabilities, the Panel finds Allegation 1a proven in respect of Pupil G. The Panel is not satisfied that there is sufficient evidence to prove Allegations 1b-d.

Pupil H – 3 November 2004

An incident report at Page 110 notes that Mr Howard asked the child three times whether he was interested in doing the lesson. Receiving a negative response, Mr Howard started to remove, or tip, the child's chair. The report notes that Pupil H "then swung an arm out that hit Mr Howard in the face". Pupil H asserted (page 114) that, after he had subsequently left the room, Mr Howard grabbed his wrists, forcing Pupil H to walk with his hands behind his back; until ultimately they both fell.

In his oral evidence, Mr Howard confirmed that he did recall tipping the chair. Asked why it was necessary to do so, Mr Howard said that the child was holding up the lesson and refusing to move. However, he also stated that by 2004 it had been made clear to him that chair tipping was not an acceptable way of managing the behaviour. He accepted that it was a 'small' use of force.

In relation to the alleged grabbing of Pupil H's wrists and/or placing of arms behind Pupil H's back, the Panel considers that Mr Howard may have been responding to a direct physical attack and that his reaction might have fallen within the scope of the school's policies.

In relation to the tipping of the chair, however, the Panel is satisfied that, it was not necessary or appropriate for him to have tipped the pupil's chair and that his actions in this case amounted to inappropriate physical force in any event, particularly as the Panel

is satisfied that it had been made clear to Mr Howard by this point that the tipping of chairs was not appropriate. Allegation 1a is proven.

Pupil I – 2 December 2005

A document at page 123 identifies a complaint that Mr Howard had butted into a conversation between a teacher and Pupil I and, amongst other things, told her that she was “arrogant” and that “if you spoke to someone in the street like that they would wallop you”.

Mr Howard stated that he did not think he had been in a confrontational situation with Pupil I. He accepted that he might have addressed any pupil if they were speaking to a colleague in a disrespectful way. He did not recall the words which might have been used, but he did not recognise the words in the complaint.

Given the paucity of evidence available, the Panel is prepared to accept Mr Howard’s version of events. It does not find it proven on the balance of probabilities that any element of Allegation 1 is made out in respect of Pupil I.

Pupil J – 3 June 2008

A serious incident form at page 127, submitted by another teacher, identifies that when Pupil J would not obey instructions to leave a corridor, Mr Howard grabbed Pupil J by the shoulders and tried to escort him out. It goes on to describe a confrontation in which Pupil J punched Mr Howard’s dinner plate. A fellow teacher gave an account (page 131) indicating that the incident culminated with Mr Howard having the pupil in an ‘arm lock’ and putting the pupil’s arms behind their back.

In his oral evidence, Mr Howard stated that he did not recall grabbing Pupil J by the shoulders at the start of the incident, and there is no reference to grabbing of shoulders in his statement from the relevant time, at page 140. He does refer in that statement to the pupil throwing a punch at him on two occasions. This is the only reference by any witness to a punch being thrown by Pupil J other than at Mr Howard’s dinner plate.

Mr Howard accepted in oral evidence that by the end of the incident he was holding the child’s wrists and escorting him down the corridor. He stated that he had no reason to doubt the suggestion that he had the child in an ‘arm-lock’. The Panel also notes that in his written statement at page 140 Mr Howard indicates that he did hold Pupil J’s wrists behind his back.

The Panel is conscious that Mr Howard is the only witness to these events who has given oral evidence in the hearing. Nevertheless, the Panel is not convinced on the balance of probabilities that Pupil J at any stage threw a punch at Mr Howard, as opposed to

knocking his dinner plate. Further, the Panel considers it probable that Mr Howard did grab the child's shoulders when he was escorting him from the corridor. The Panel considers that this, and his subsequent actions, amounted to inappropriate physical force and excessive force. Therefore, Allegations 1 a and b are found proven. The Panel is not persuaded that Allegations 1 c or d have been proven in respect of this pupil.

Pupil K – 10 February 2009

The facts of the allegation are outlined from paragraphs 32 onwards of Witness A's statement at page 30. They were, in essence, that, in the presence of an Emergency Teacher, Mr Howard followed Pupil K and put his hand out to stop the pupil, who was agitated. He was also said to have put his arms either side of the child, raised his hands either side of Pupil K's face and blocked his path.

Mr Howard accepted in oral evidence that Pupil K was not presenting any threat to himself or the other teachers. He accepted that he touched Pupil K's face and put his arms either side of the child but did deny either that he was 'controlling' Pupil K by these actions, or that he was using his arms as a barrier. He stated that his intention was purely to focus the child's attention.

Referring to the school policy at page 236, Mr Howard claimed that a child walking away and not following instructions could be interpreted as "serious disorder" justifying the use of physical restraint. He claimed that he was not angry, but was simply trying to do the right thing. The Panel observes that meeting notes at page 166 record Mr Howard recounting verbal abuse aimed at him by the child. Ultimately, under questioning before the Panel, Mr Howard accepted that his actions were inappropriate and in breach of the school's policy.

Whatever Mr Howard's position, and however honourable his intentions at the time, the Panel considers that Mr Howard should not have become involved in this incident at all, particularly when an Emergency Teacher, designated to deal with such situations, was present. The Panel considers that in the circumstances, the touching of the child's face, and the placing of arms either side of the child amounted to inappropriate physical force, excessive force and intimidating behaviour. The Panel does not consider that the situation was a "serious disorder" or that the actions can be justified under the school's policies or otherwise. Allegations 1 a-c inclusive are therefore found proven in respect of Pupil K. The Panel does not consider allegation 1 d proven.

Pupil L – 25 June 2013

The Panel heard oral evidence by video-link from Pupil L. He stated that he was told by his class teacher to take himself down to room R12. He stated that, although sometimes

teachers came to collect pupils to take them to R12, he had also walked to room R12 “loads of times” on his own and teachers would let him go to R12 on his own.

Pupil L stated that he left the classroom himself, the door having been left open. Mr Howard appeared from his classroom and made comments to the effect that ‘if this was on the BBC they would see how much of a rude, pathetic and little child you are’. Pupil L stated that Mr Howard followed him, moved his arms from side to side like a goalkeeper and put his arm on Pupil L’s back. Mr Howard was said to have blocked Pupil L from going in a different direction. Pupil L stated that, in the stairwell, Mr Howard grabbed his wrist “like he was strangling it” - gripping it hard and squeezing it. Pupil L used his other hand to help to release Mr Howard’s grip. When they got to the bottom of the stairs, Mr Howard then blocked him until Witness C intervened.

Witness C, in his oral evidence, stated that he saw from a nearby room Mr Howard with his arms spread wide in an ‘L shape’ across Pupil L, not touching him but blocking his path. Witness C described Mr Howard as being agitated. The statement of Witness B, at page 49, corroborates this account, albeit in oral evidence neither witness suggested that Mr Howard was physically touching Pupil L at the point when they saw the pair downstairs.

Witness C stated in oral evidence that Mr Howard had no need to become involved, because there were procedures and systems in place which could cope with the situation.

Witness C felt that Mr Howard’s response to Pupil L was inappropriate because of the proximity of Pupil L to the wall, and the way in which Mr Howard was enclosing him. Witness C said that Mr Howard’s actions did not have the effect of de-escalating the situation, and he was not aware of any other examples where teachers not specifically designated to handle such situations had dealt with pupils in the manner Mr Howard had adopted.

In his oral evidence, Mr Howard denied having called Pupil L a rude or pathetic child. He accepted that it would not have been “particularly complimentary” to do so. Mr Howard accepted that the teacher had asked Pupil L to leave the room and go to R12. He stated that the pupil was shouting and making noise in the corridor and “was not in a hurry” to go to R12. Mr Howard denied touching Pupil L’s wrists, although he accepted that he lightly touched Pupil L on the shoulder. He stated that he followed behind Pupil L to make sure he reached R12. He said that when they got to the staircase he realised he was in a “dangerous position” as Pupil L had pointed out that there were no CCTV cameras covering this area. Mr Howard decided to walk two steps behind Pupil L. He took the view that he should proceed down the stairs because he was so close to R12 by that point.

Asked why he did not simply email or call R12, in line with the school policies, to inform them that Pupil L was at large in the school, he stated that he wanted to ensure that Pupil L arrived safely. Mr Howard accepted that there would have been no justification for grabbing Pupil L's wrists, but denied doing so. Mr Howard said that his actions had been legitimate and that he had put his previous training into practice in this incident by guiding the child to R12 rather than confronting him.

In his oral evidence, Pupil L recalled one wrist being red after the incident. Witness B was unsure whether it was one wrist or two. Witness C recalled both being red. Mr Howard has suggested that the redness may have been self-inflicted by Pupil L. On the balance of probabilities the Panel considers that one or more wrist was red and that the redness was more likely than not to have been inflicted by Mr Howard.

The Panel found Pupil L to be a particularly credible witness. The Panel prefers his evidence of the incident to that of Mr Howard. The Panel considers it more likely than not that, whilst on the staircase, Mr Howard grabbed Pupil L's left wrist first, and subsequently grabbed his other wrist as Pupil L struggled to escape. The Panel is also satisfied that Mr Howard placed his hand on Pupil L's shoulder, and that, when they reached the bottom of the stairs, Mr Howard was 'blocking' Pupil L in such a way that he was not able to escape.

Various references have been made to both school policies and national non-statutory guidance. The Panel has considered both carefully, and has concluded that the behaviour of Mr Howard conformed with neither.

The Panel notes that the school's policy document dated 2007, at page 237, identifies the use of physical barriers to restrict movement as a restraint. The Panel notes the clear stipulations on the first page of the policy (page 236) that teachers "must only use physical restraint where it is the most effective strategy to avoid risk of injury to self and others, significant damage to property or serious disorder", and that physical restraint must be "a last resort to support pupils in times of crisis". The Panel does not consider that the situation at issue was a crisis, that Pupil L presented any real risk, or that the physical restraints deployed by Mr Howard either supported any pupil or amounted to the most effective strategy to avoid risk. Indeed, from the evidence of Witness C, it appears to the Panel that if anything Mr Howard's actions served to create risk by agitating Pupil L.

The Department for Education's non statutory guidance (page 416 onwards) stipulates that "reasonable in the circumstances" means "no more force than is needed". The Panel is satisfied that in the circumstances presented by Pupil L's actions, no level of force was in fact reasonable.

Finally, the Panel also notes that Mr Howard had been given specific instructions, including by way of a letter dated 19 May 2009 (page 220-221), not to restrain a child, or to deal with any behavioural incident, unless he or another person was under direct physical assault. The Panel does not accept the contention (if in fact it is still maintained by Mr Howard) that compliance with this instruction was either voluntary or time limited. The Panel considers that the instruction was mandatory and remained in place indefinitely. The Panel does not accept that Mr Howard or any other person was under direct physical assault in relation to the Pupil L incident and therefore considers that his actions were contrary to the instructions given.

In view of the above, and having considered all the evidence, the Panel finds that in relation to the incident with Pupil L, Mr Howard demonstrated inappropriate physical force, excessive force and intimidating behaviour. Allegations 1(a) – 1(c) are therefore found proven as regards Pupil L.

The Panel considers that there is some doubt as to the exact words used by Mr Howard towards Pupil L. The Panel is prepared to accept that Mr Howard’s reference to the BBC and associated comments may not have been, on their own, intimidating or derogatory. It therefore finds allegation 1(d) not proven in respect of Pupil L.

Summary of Allegation 1

The Panel’s findings in relation to Allegation 1 can therefore be summarised as follows:

Incident	Aspect Proven	Aspect Not Proven
Pupil A	None	(a)-(d)
Pupil B	None	(a)-(d)
Pupil C	None	(a)-(d)
Pupil D	None	(a)-(d)
Pupil E	(a) – (c)	(d)
Pupil F	None	(a)-(d)
Pupil G	(a)	(b)-(d)
Pupil H	(a)	(b)-(d)
Pupil I	None	(a)-(d)
Pupil J	(a) – (b)	(c) – (d)
Pupil K	(a) – (c)	(d)
Pupil L	(a) – (c)	(d)

2. By your conduct set out in paragraph 1 above you thereby:
 - a. demonstrated a repeated pattern of behaviour;
 - b. failed over time to alter and/or correct your behaviour appropriately and/or sufficiently;

As regards 2(a), the Panel has found it proven that incidents occurred in at least 1998, 2004, 2008, 2009 and 2013. The Panel considers that these showed a pattern of

unnecessary intervention in behavioural incidents, involving inappropriate physical contact typically characterised by blocking, holding of wrists or pushing of pupils. None of the incidents happened in Mr Howard's classroom. Mr Howard also appeared to disregard school policies repeatedly. On this basis, having considered all the evidence carefully, the Panel concludes that Allegation 2(a) is proven on the balance of probabilities.

In relation to 2(b) the Panel makes the following observations:

Formal warnings were given at least in relation to the incidents with Pupil E and Pupil K. In addition, Mr Howard was given support and advice. In his own oral evidence he confirmed that he had access to counselling from around 2008 and was able to see his line manager regularly and, at least for a period of time was told by the Vice Principal that he could consult her on an 'open door basis'. Mr Howard also confirmed that he received anger management training after the incident with Pupil H in 2004, and further training in 2009.

As already indicated Witness A sent Mr Howard a clear letter of instruction in 2009 (page 220-221). The Panel notes that, amongst various differing interpretations of the letter put forward by Mr Howard in oral evidence, he stated at one stage that it would be "foolish to dismiss it after a certain period of time". The Panel agrees with this analysis. The Panel has already stated its view that this was a management instruction which was neither optional nor time limited. The Panel further notes that in a meeting recorded at page 296, relating to the Pupil L incident, Mr Howard accepted that he had disobeyed the prior instructions of Witness A.

It is clear from the evidence put forward that the 2009 letter was not the first time that Mr Howard had been given clear instructions in relation to behaviour management.

The Panel notes that at Page 168 Mr Howard is recorded as confirming, in interview in 2009 after the Pupil K incident, that he had previously been advised to "let the student walk" if there was no danger to student or staff.

At page 124 is a letter dated 2005 from Ms Barrett, Deputy Head Teacher, identifying that the Headteacher had spoken with Mr Howard regarding the expectations of staff in dealing with students.

Mr Howard was also sent a letter from Witness A, dated 4 February 2005 (page 121), which specified that "no physical contact should be made with a student unless you or another student are under direct physical attack".

The Panel notes that in the minutes of an investigation meeting in 2009, following the Pupil K incident, (page 168), Mr Howard is recorded as stating "if I get through this I will never do this again. I will walk away and let other people deal with it".

In his oral evidence, Mr Howard stated to the Panel that the incident relating to Pupil K had crystallised in his mind “that this [behaviour] should not happen again”.

Mr Howard stated that he considered himself a “work in progress” and that he was “not perfect”. No person is perfect. The Panel is not holding Mr Howard to a standard of perfection and nor do the allegations demand that. However the Panel has reached the conclusion, considering all the evidence carefully, that, despite numerous efforts by various staff at the school, and despite his own undoubted desire to change, Mr Howard has not, on the balance of probabilities, altered or corrected his behaviour sufficiently or adequately over time.

Allegation 2(b) is therefore found proven.

3. Following an incident with Pupil L on 25 June 2013, you failed to provide a true and accurate account of your encounter with Pupil L, in that you misrepresented in a Serious Incident Record the reasons why you had become involved with Pupil L that day, by claiming in effect your agreement at the behest of a member of staff to become involved, when no such request had been made of you nor had such offer been made by you;

Mr Howard stated in the Serious Incident Record (page 305), completed shortly after the incident, that he “agreed to escort” Pupil L. Notes of a subsequent discussion later that day record him stating that the other teacher “had asked him to see that Pupil L went to R12” (page 277). In his oral evidence to the Panel Mr Howard said that he did not recall saying this. The Panel is satisfied that he did.

Under questioning, Mr Howard accepted that he had failed to provide a true and accurate account. Giving oral evidence, Mr Howard accepted that there was no agreement to escort Pupil L and that it was his idea to intervene. He said that he completed the form in the way he did because he wanted to protect his colleague from criticism for failure to follow procedures. He stated that, with hindsight, he accepted that he should not have mis-stated the position.

On the basis of all the evidence, it seems clear to the Panel that Mr Howard misrepresented the reasons for his involvement in the incident and thereby failed to provide a true and accurate account of his encounter with Pupil L. Allegation 3 is therefore found proven.

4. Your actions in paragraph 3 above were:
 - a. misleading;
 - b. dishonest, in that you intentionally sought falsely to excuse and /or explain your involvement knowing:
 - i. there was no requirement and/or justification for your involvement; and/or

- ii. you at the time considered yourself possibly prohibited from involvement in such circumstances.

Allegation 4 (a)

During an interview after the event, the notes of which are at page 295, Mr Howard was recorded as being unable to identify why he had mis-stated the position, and that he “couldn’t honestly say” if the teacher had asked him. He did not identify that he was trying to protect the other teacher, or provide any other reason for his involvement.

In oral evidence before the Panel, Mr Howard accepted that, whilst it was not his intention to mislead, his actions had in fact been misleading.

The Panel is satisfied as a matter of fact that Mr Howard’s actions in Allegation 3 were misleading. Allegation 4(a) is therefore found proven.

Allegation 4(b)

In relation to Allegation 4(b), the Panel considered first whether, as a matter of fact, Mr Howard intentionally sought falsely to excuse and /or explain his involvement, and whether he knew that there was no requirement and/or justification for his involvement; and/or at the time he considered himself possibly prohibited from involvement in such circumstances.

The Panel is satisfied, in view of the evidence before it, that Mr Howard must have known the facts as stated in the serious incident form were not accurate, that Mr Howard meant to mis-state the facts and that Mr Howard’s mis-statement of those facts was intentional.

In his oral evidence, Mr Howard stated that he did not know at the time that he was possibly prohibited from becoming involved in the circumstances. Mr Howard accepted that there was no requirement for him to get involved in the situation with Pupil L. Mr Howard accepted that he knew of the policies which existed for managing behaviour. He accepted that these policies considered the use of physical barriers as a restraint. He acknowledged that “one option” available was to call the staff in room R12 to ask for their assistance. However, at one stage he also argued that the 2009 letter was a “suggestion for behaviour in the future” and that he was not bound by it. Mr Howard has never contended that he was a designated Emergency Teacher on the day in question.

Having considered all the evidence before it, on balance, the Panel considers it more likely than not that Mr Howard did know, as a member of staff who was not a designated Emergency Teacher on the day in question, that there was no requirement for his involvement in the situation. Further, the Panel is not satisfied that Pupil L could have been seen by Mr Howard as presenting any real risk to himself, to others, or to school property. The Panel finds that, in view of the clear guidance given to him previously, and

in view of the school policies which were known to him at the time, Mr Howard knew that there was in fact no justification for his involvement in the situation.

The Panel notes a record of a meeting with Witness D, following the incident with Pupil L (page 296), in which he is recorded as having agreed that he had disobeyed Witness A's instructions in the 2009 letter referred to above. In view of this, and given the previous incidents and the various advice and guidance given to him in the past, the Panel further finds that Mr Howard did consider himself possibly prohibited from becoming involved in the situation.

In line with the legal advice provided to it, the Panel went on to consider whether, according to the ordinary standards of reasonable and honest people, what was done was dishonest. The Panel concluded that the intentional or knowing mis-statement of the facts contained within a serious incident form would in the circumstances be considered dishonest by the standards of reasonable and honest people.

Finally, as advised, the Panel considered whether Mr Howard must have realised that his actions were dishonest by the standards of reasonable and honest people. The Panel took due account of Mr Howard's previous good character in assessing the matter, but is nevertheless satisfied, given the context, that he must have realised his actions were dishonest.

In summary, the Panel finds Allegation 4 proven in its entirety.

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

In considering the allegations that the panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which the Panel refers to as the 'guidance'.

The Panel is satisfied that the conduct of Mr Howard in relation to the facts found proven, involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mr Howard 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 Panel is satisfied that the conduct of Mr Howard fell significantly short of the standards expected of the profession. The Panel has found that Mr Howard acted with excessive and inappropriate force on a number of occasions over the course of several years. Mr Howard is of good previous character, and the Panel does not doubt that Mr Howard has made efforts to address his propensity towards physical intervention. It is also clear that Swindon Academy have attempted to assist through advice, instructions and training. However, it is unfortunately also apparent from the repetitive nature of Mr Howard's behaviour that these efforts and assistance have been in vain. Mr Howard has repeatedly sought to justify clear violations of school policies and practices in relation to behaviour management. The effect, on more than one occasion, has been to exacerbate rather than de-escalate behavioural incidents, with the result that the school's efforts to safeguard pupils have been undermined.

The Panel has also considered whether the Mr Howard's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance. It has found that none of these offences are relevant.

Accordingly, the Panel is satisfied that Mr Howard is guilty of unacceptable professional conduct.

The Panel then considered the question of whether Mr Howard's actions constitute conduct that may bring the profession into disrepute. The Panel has taken into account how the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community.

The Panel has taken account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave. In this context, the Panel is concerned about the messages which might be sent out to pupils and to the wider community, if the unwarranted use of physical force by a teacher, on repeated occasions, were seen in any way as acceptable, particularly in circumstances where efforts have been made to assist and encourage the teacher to reform.

The Panel therefore finds that Mr Howard's actions constitute 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/conduct that may bring the profession into disrepute, it is necessary for the Panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the Panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have a punitive effect.

The Panel has considered the particular public interest considerations set out in the Teacher Misconduct – The prohibition of Teachers advice and having done so has found the protection of pupils, the maintenance of public confidence in the profession, and the need to declare and uphold proper standards of conduct, are all relevant here.

In light of the Panel's findings against Mr Howard, which involved repeated episodes of excessive and unnecessary force against, and intimidation of, pupils, there is a strong public interest consideration in respect of the protection of pupils, particularly given the tendency of Mr Howard's actions to have an escalatory impact on behavioural incidents.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Howard were not treated with the utmost seriousness when regulating the conduct of the profession.

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

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 Howard.

In carrying out the balancing exercise the Panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Howard. The Panel took further account of the guidance, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case include:

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

- a deep-seated attitude that leads to harmful behaviour
- abuse of position of trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- dishonesty
- deliberate behaviour that undermines pupils, the profession, the school or colleagues

Even though there were behaviours that would point to a prohibition order being appropriate, the Panel went on to consider whether or not there were sufficient mitigating factors to militate against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

Mr Howard is of previous good character and the Panel is satisfied that he was a good teacher. It is evident that he has put significant effort into the education of children. The Panel notes, for example, the letter at page 189, which thanks Mr Howard for taking children on a trip to Iceland, and other letters from the Principal thanking him for trips to Barcelona (page 448), Gambia (page 449), London (page 445), and other Geography field trips. The Panel recognises this as showing a very significant commitment to the school. In another letter, at page 190, Witness A, the Principal, stated “Your professionalism and energy never ceases to amaze me”. Another letter from the Principal, at page 194, states that “great progress has been made in Humanities” as a result of his leadership. The documents also indicate that Mr Howard’s attendance was exceptionally good. An email at page 185, sent to the Principal by the parents of a challenging child, stated that their child (who had ADHD) “was very lucky to have Mr Howard as his tutor as [the child] has developed positively over the last few years as a result of the support and encouragement of Mr Howard”. The parent went on to state that Mr Howard “has the unique and talented ability to teach children not only the academic aspects typical during school but the deeper life skills such as communication, compassion, tolerance and understanding”.

Notwithstanding his undoubted good character, there is no evidence that Mr Howard was acting under duress, and, although he recognised that his propensity to intervene physically in behavioural situations was a problem and had tried to take steps to reform, nevertheless Mr Howard’s actions were clearly deliberate.

The Panel is of the view that prohibition is both proportionate and appropriate. The documents referred to above suggest Mr Howard is a highly gifted classroom teacher. Nevertheless it is also apparent from the evidence presented to the Panel that he has an unfortunate tendency to intervene physically in behavioural incidents which occur outside classroom situations, without giving due consideration to the appropriate response or the need for his involvement. On more than one occasion, the effect of Mr Howard’s interventions appears to have been to escalate bad behaviour. We have already noted that despite receiving significant support, advice, training and disciplinary warnings over

a number of years, Mr Howard did not sufficiently reform his approach to such situations. We have decided that the public interest considerations outweigh the interests of the teacher. The Panel has particular regard to the potential impact on the protection of pupils arising from the risk of such incidents recurring. Accordingly, having carefully weighed the matter, the Panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The Panel went on to consider whether or not it would be appropriate for it to decide to recommend that a review period of the order should be considered. The Panel was mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises 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 two years.

The Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. The Panel does not consider that Mr Howard's behaviour falls within any of the listed categories.

Mr Howard has shown some insight into his behaviour and a willingness to improve. He is undoubtedly a capable classroom teacher and able to deal with behavioural issues in the classroom. The Panel also recognises that a prohibition from teaching will have a significant impact on Mr Howard. However, it is also true that he has been given many opportunities to reform his approach to wider behavioural situations. The fact that recurring incidents occurred over a period of several years suggests to the Panel that Mr Howard struggles to change.

The Panel felt the findings indicated a situation in which a review period would be appropriate. The Panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a review period after 4 years. The Panel recognises that Mr Howard has had anger management training in the past. This does not appear to have been wholly effective. In order to reach a position where he may be permitted to teach again, Mr Howard will need to demonstrate that he understands the appropriate approach to behavioural situations, whether or not it is appropriate for him to become involved in them, and that he is capable of putting the theory of behaviour management into practice in a consistent manner. At present, the Panel is not convinced that he has addressed his deep seated behavioural attitudes. He needs time to address this. Bearing in mind the previous training, support, disciplinary actions and anger management training, the Panel considers that four years is the appropriate period of time to allow for this change to be put into effect.

Decision and reasons on behalf of the Secretary of State

I have carefully considered the findings and recommendations of the panel in this case. The panel considered a number of allegations and in respect of those found proven, have judged that Mr Howard's behaviour amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

In considering whether to recommend a prohibition order the panel have properly balanced the interests of the public with those of Mr Howard. The panel have found the following public interest considerations to be relevant in this case:

- The protection of pupils;
- Maintenance of public confidence in the profession; and
- Declaring and upholding proper standards of conduct.

Mr Howard's behaviour involved repeated episodes of excessive and unnecessary force against pupils.

Mr Howard is of previous good character and the panel is satisfied that he has been a good teacher. However, notwithstanding this, there is no evidence that he acted under duress and his actions were clearly deliberate. Despite receiving significant support, training and warnings Mr Howard did not sufficiently reform his approach to behavioural incidents. In the circumstances I agree that a prohibition order is both an appropriate and proportionate sanction.

With regard to a review period, Mr Howard has shown some insight into his behaviour and a willingness to improve. The panel have recommended that Mr Howard be allowed to apply for the order to be set aside after a minimum period of 4 years has elapsed and I agree with that recommendation.

This means that Mr Ian John Howard is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 9 March 2019, 4 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Ian John Howard remains prohibited from teaching indefinitely.

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

Mr Ian John Howard 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 'P Heathcote', with a large, sweeping flourish at the end.

NAME OF DECISION MAKER: Paul Heathcote

Date: 2 March 2015

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