



National College for
Teaching & Leadership

Mr Preantharan Naidoo: Professional conduct panel outcome

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

July 2016

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

Teacher: Mr Preantharan Naidoo

Teacher ref number: 0213087

Teacher date of birth: 4 October 1965

NCTL case reference: 11451

Date of determination: 25 July 2016

Former employer: The Globe Academy, London

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 21 to 22 and 25 July 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Preantharan Naidoo.

The panel members were Dr Robert Cawley (teacher panellist – in the chair), Ms Nicolé Jackson (lay panellist) and Mr Martin Greenslade (lay panellist).

The legal adviser to the panel was Miss Eszter Horvath-Papp of Eversheds LLP.

The presenting officer for the National College was Mr Christopher Geering of 2 Hare Court.

Mr Naidoo was not present and not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 3 September 2015.

It was alleged that Mr Naidoo was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed at Globe Academy, London ("the Academy"), between 2008 and 2013:

1. He behaved in an inappropriate manner towards Student A in that:
 - a. on his last day of term he requested his mobile phone number;
 - b. on one or more occasions he communicated in an inappropriate and/or flirtatious manner via:
 - i. text messages;
 - ii. Facebook
 - c. on one or more occasions he invited Student A to his home;
 - d. whilst Student A was at his home he:
 - i. rubbed his chest;
 - ii. touched his leg
 - e. on one or more occasions he told him that he loved him;
 - f. he told him that he never wanted him out of his life, or words to that effect;
 - g. when Student A was under age 18 he took him to a pub and/or offered to buy him a pint;
 - h. on one or more occasions he interacted with him socially outside the Academy;
 - i. on one or more occasions he gave and/or bought him gifts and/or food;
 - j. he paid him to complete teacher's work
2. He behaved in an inappropriate manner towards Student B in that:
 - a. on one or more occasions he interacted with him socially outside the Academy;
 - b. he visited his home;
 - c. on one or more occasions he gave and/or bought him gifts and/or food;
 - d. he was found with a photograph of Student B in his possession
3. He behaved in an inappropriate manner towards Student C in that:
 - a. he obtained his mobile phone number and/or email address whilst he was a current pupil;
 - b. on one or more occasions he gave and/or bought him gifts and/or food

4. He behaved in an inappropriate manner towards Student D in that:
 - a. on one or more occasions he hugged him;
 - b. on one or more occasions he rubbed his shoulders;
 - c. on one or more occasions he promised a gift in return for good behaviour
5. he behaved in an inappropriate manner towards Student E in that:
 - a. on one or more occasions he hugged him;
 - b. on one or more occasions he interacted with him socially outside the Academy;
 - c. on one or more occasions he invited Student E to his home;
 - d. on one or more occasions Student E visited his home;
 - e. on one or more occasions he told Student E that he loved him;
 - f. he told Student that he was like a son to him, or words to that effect;
 - g. on one or more occasions he used the term and/or allowed the following terms to be used:
 - i. dad in reference to himself;
 - ii. son in reference to Student E
 - h. he was found with a photograph of Student E in his possession
6. His conduct as described at paragraph 1 and/or paragraph 2 and/or paragraph 3 and/or paragraph 4 and/or paragraph 5 above was sexually motivated.

In the absence of any response from Mr Naidoo, the allegations are taken not to have been admitted.

C. Preliminary applications

Proceeding in absence

Mr Naidoo did not attend the hearing and the presenting officer made an application to proceed in his absence.

The panel was satisfied that NCTL has complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012. The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "disciplinary procedures").

The panel therefore went on to consider whether to exercise its discretion under Paragraph 4.29 of the disciplinary procedures to proceed with the hearing in the absence

of Mr Naidoo. The panel was mindful that its discretion to commence a hearing in the absence of a teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of *R v Jones [2003] 1 AC1*. In addition, the panel had regard to the case of *GMC v Adeogba & Visvardis [2016] EWCA Civ 162*, in which the Court of Appeal made clear that, whilst it is of real significance if a case proceeds in a practitioner's absence that the panel would not have the practitioner's input, that difficulty cannot override all other considerations.

The panel noted that Mr Naidoo has had very limited contact with the NCTL in connection with these proceedings. He has responded to requests for his availability, and raised a complaint when the originally listed hearing was postponed at short notice. However, at no point has he provided any evidence or given any indication that he would attend. The panel was satisfied that he was aware of the date and location of this hearing and has provided no reason for his non-attendance.

The panel therefore concluded that Mr Naidoo has waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

The panel had regard to the extent of the disadvantage to Mr Naidoo in not being able to give his account of events, having regard to the nature of the evidence against him. The panel took account of the seriousness of this case, and the potential consequences for Mr Naidoo. The panel accepted that fairness to Mr Naidoo was of prime importance.

However, the panel was of the view that there were good reasons to proceed with this case, which outweighed Mr Naidoo's interest, and the panel was satisfied that it would be able to robustly test the evidence on Mr Naidoo's behalf in his absence. In particular, the panel noted that the allegations were from at least four years ago, and the hearing had already been postponed once before. It was in the interests of Mr Naidoo, the witnesses and the public generally that this matter be heard within a reasonable timescale of the events to which it relates. The allegations were serious and it would be unfair to put off hearing them to a later date. Mr Naidoo had clearly waived his right to appear and there was nothing to indicate that an adjournment would enable him to attend at a later date.

Therefore, on balance, the panel was of the view that it was fair and appropriate to proceed with the hearing in the absence of Mr Naidoo.

Proceeding on basis of hearsay only

Whilst not a preliminary application, prior to closing his case, the presenting officer highlighted to the panel the fact that the case against Mr Naidoo was entirely hearsay. The panel therefore considered an application from the presenting officer requesting the panel to consider whether it would be fair to proceed with this matter in light of the fact that the NCTL's witnesses have not attended the hearing to give live evidence. The presenting officer has directed the panel's attention to the cases of *R (Bonhoeffer) v General Medical Council [2011] EWHC 1585* and *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)*, and the panel has received legal advice on these cases. The panel announced its decision as follows:

The panel notes that it has the power under paragraph 4.18 of the disciplinary procedures to admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case. In addition, the panel has the discretion, under paragraph 4.54 of the procedures, at any stage of the proceedings, to adjourn the case, or to discontinue the proceedings, where it considers it fair and appropriate. Therefore, in either case, the test for the panel to consider is that of fairness.

In assessing the issue of fairness, the panel has considered the two cases referred to, and has taken account of the list of factors set out in the case of *Thorneycroft*. The panel's views on these factors were as follows:

(i) whether the statements were the sole or decisive evidence in support of the charges

The panel is of the view that the evidence of Students A, B, C, D and E is directly relevant to the allegations against Mr Naidoo. This evidence consists of:

- Student A's police interview, both as a video recording and as a transcript, as well as Student A's written statement to the police;
- Student B's written statement to the police and his draft and unsigned statement to the NCTL;
- Student C's written statement to the police;
- Student D's police interview, both as a video recording and as a transcript; and
- Student E's police interview, both as a video and as a transcript.

The panel considers that this is the sole evidence that is available in support of the allegations against Mr Naidoo, and that this evidence is decisive. The police were able to speak with the students directly, and the panel has had the benefit of seeing three of the police interviews. These have provided the panel with an invaluable impression of the students' demeanour and descriptions of Mr Naidoo's interactions with them. The evidence has been sufficiently clear to enable the panel to assess the credibility of the students and their version of events. The panel is satisfied as to the quality of the evidence available and considers it decisive in support of the allegations.

The panel notes that Ms F also did not attend the hearing, but the panel does not consider her evidence to be decisive, given that her evidence merely reports what Student D told her.

(ii) the nature and extent of the challenge to the contents of the statements;

The panel is mindful that Mr Naidoo has not attended the hearing and that the panel has decided to proceed in his absence. The panel has been keen to robustly test the evidence on his behalf in his absence, and to give appropriate weight to the evidence where necessary.

However, the panel notes that Mr Naidoo has not engaged with the police, the academy or the NCTL in terms of offering his own explanation of the circumstances underlying the allegations against him. As a result, the panel has had no indication from Mr Naidoo as to the nature of the challenge he would have wished to raise against the students, had they appeared in person for cross-examination. The panel notes the contrast with the *Thorneycroft* case, where the registrant had submitted significant reasons for challenging the evidence, which he had asked the disciplinary panel to pursue on his behalf.

In this case, the panel considers that there are limited lines of arguments that it would have been able to test with live witnesses in Mr Naidoo's absence. The panel is of the view that it has sufficient evidence before it, particularly from the video recordings, to assess whether the students may have been lying about the alleged incidents or colluding in their evidence against Mr Naidoo. In addition, given the varying cultural backgrounds and the short time that some of the students had been in the UK, the panel has had the opportunity to explore the possibility of any cultural misinterpretation being the underlying reasons for the allegations, when the panel questioned Witness A from the academy.

The panel therefore is satisfied it is able to test the hearsay evidence sufficiently in circumstances where the nature and extent of Mr Naidoo's challenges are unknown.

(iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;

The panel has not had any evidence before it to suggest that the witnesses had reasons to fabricate their allegations. Indeed, the panel notes that all the students, as well as Witness A, have spoken highly of Mr Naidoo as a teacher, and many of the students were grateful for his help and support. There is no evidence that they had any animosity towards him. In addition, the students saw nothing particularly untoward in his actions towards them.

The panel is therefore satisfied that there is no suggestion of fabrication or collusion in this case.

(iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the professional's career;

The panel acknowledges that the allegations against Mr Naidoo, particularly that of sexual motivation, are very serious. In the case of an adverse finding, the potential sanction of a prohibition order, which applies for life, would also have very serious consequences for Mr Naidoo's career as well as his reputation.

However, the panel is of the view that this factor alone should not prevent the panel from proceeding to consider the case on the basis of hearsay evidence alone, and the wider circumstances, as set out in respect of each of the other factors, outweigh the relevance of the seriousness of the charge and impact.

(v) whether there was a good reason for the non-attendance of the witnesses;

There is no evidence before the panel as to the reasons why the witnesses have not attended. The panel notes that, apart from Student D, the witnesses did not engage with the academy's disciplinary investigation. The panel also notes that Students B and E were each personally served with a witness summons, and Student A appears to have been informed by telephone of his witness summons. Therefore, it appears to the panel that at least these witnesses were aware of the proceedings, yet chose not to attend.

The panel infers that these students are reluctant to appear at this hearing, and the panel does not believe that any further reasonable steps can be taken to compel them to attend if the hearing were to be adjourned.

(vi) whether the NCTL had taken reasonable steps to secure their attendance;

The panel notes that all witnesses, apart from Student D, were subject to witness summons. In respect of Student D, because of his age, the NCTL had not felt it appropriate to summon him, but had engaged with his mother. However, his mother subsequently also ceased contact with the NCTL.

In the circumstances, the only other options available at this stage would be to adjourn the hearing and either seek the arrest of the witnesses who failed to comply with the witness summons, or apply to the high court for contempt of court. In the panel's view, both courses of action would be disproportionate. In addition, the panel is mindful that an adjournment would further delay the resolution of this matter, which would be unfair both to Mr Naidoo and to the wider public interest in ensuring that disciplinary matters are resolved within a reasonable timeframe. This is particularly the case given that this hearing has already been adjourned once from December 2015, and the allegations date back to at least 2012.

In the circumstances, it is clear to the panel that all reasonable steps have been taken to secure the witnesses' attendance at the hearing.

(vii) the fact that the professional did not have prior notice that the witnesses would not appear in person to give oral evidence at the hearing

The panel notes that Mr Naidoo was informed by letter on 2 June 2016 that Students A to E would be called to give live evidence at the hearing. However, the panel also notes that Mr Naidoo was also informed on 30 September 2015 that the NCTL was seeking to apply to the court for witness summonses in respect of four of the students. This would have indicated to him that the students were reluctant witnesses and that there was a risk that they may not attend.

In any event, the panel notes that Mr Naidoo has never offered any explanation for the events underlying the allegations, whether to the academy, the police or the NCTL, over the past four years. In the circumstances, the panel does not consider that Mr Naidoo would have changed his response to the NCTL proceedings, had he known that the witnesses would not attend. Further, the panel does not consider that he would change his response if the hearing were adjourned now in light of the witnesses' non-attendance, given his lack of engagement over the past four years, particularly and recently with the NCTL.

Overall, the panel is satisfied that there is sufficient evidence before it to consider the case and that it is both fair and in the public interest to proceed on the evidence available today. The panel remains mindful of the fact that Mr Naidoo is not present, and will give appropriate weight to the hearsay evidence before it.

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, with page numbers from 2 to 4

Section 2: Notice of Proceedings and response, with page numbers from 7 to 14

Section 3: National College for Teaching and Leadership Witness Statements, with page numbers from 16 to 27

Section 4: National College for Teaching & Leadership Documents, with page numbers from 30 to 178

In addition, the panel agreed to accept a "service bundle", which set out copies of the NCTL's correspondence with Mr Naidoo in relation to the notice of proceedings and the listing of the hearing. The panel labelled this bundle Appendix 1 and paginated it pages 1 to 38.

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

Witnesses

The NCTL had called a number of witnesses to give evidence at the hearing, but only Witness A, the investigating officer from the academy attended. Mr Naidoo had not called any witnesses and did not appear himself.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing, as well as the additional documents admitted during the hearing.

Mr Naidoo has been a teacher at the Globe Academy (the “academy”) as an English teacher since January 2005. In September 2012, allegations of inappropriate behaviour by Mr Naidoo were brought to the attention of the academy’s principal. During late 2012 and early 2013, a police investigation into the allegations was undertaken and a number of pupils were interviewed. The CPS decided to take no further action. The academy undertook its own disciplinary investigation and on 15 November 2013 Mr Naidoo was dismissed.

Findings of fact

Our findings of fact are as follows.

At the outset, the panel would restate that it is mindful of the fact that Mr Naidoo has not been present at the hearing and has not at any stage since the allegations against him arose put forward his version of events. The panel is also conscious that the key evidence against Mr Naidoo has been in the form of hearsay.

However, the panel has had the benefit of seeing the recordings of the police interviews with Students A, D and E. The panel has found the demeanour of these students to be open, and their explanation of events clear. In addition, the panel notes that, apart from Student D, all of Students A to E were high achieving students, who were highly regarded by Witness A. His professional view was that each student had his own particular vulnerabilities (such as having recently arrived in the UK, living away from their parents or having behavioural difficulties), of which the academy was well aware and for which it provided support. Further, all the students spoke highly of Mr Naidoo as a teacher.

In the circumstances, the panel finds the evidence of Students A, D and E very credible and highly persuasive. In the panel’s view, these students had no reason to fabricate the events giving rise to the allegations, and there was no indication of collusion on their part.

In terms of Students B and C, the panel is mindful that it has not had the opportunity to see their demeanour, and the panel therefore attaches less weight to their evidence generally. However, the panel also notes that there are significant similarities between their accounts and those of Students A, D and E.

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

1. He behaved in an inappropriate manner towards Student A in that:

b. on one or more occasions he communicated in an inappropriate and/or flirtatious manner via:

i. text messages

Whilst the panel has not had before it any direct evidence in the form of copies of any text messages, in his police interview, Student A described that he had swapped numbers with Mr Naidoo on the last day of academy, and subsequently they exchanged messages via WhatsApp (p.45). The police then took Student A through a number of messages from Mr Naidoo to Student A (p.50-53), and the panel has no reason to believe that these messages did not exist. The messages included references to the correlation between the size of a man's feet and his penis, and statements such as "you are a big boy", "I like you being authoritative" and "I will try to dream of you".

In the panel's view, these messages were clearly flirtatious in nature, and entirely inappropriate given that Student A was under 18 and a recent former pupil of Mr Naidoo's. Mr Naidoo only knew Student A from their time as teacher and pupil, and Mr Naidoo was aware of Student A's vulnerabilities and that he was in a position of trust.

The panel therefore finds this allegation proven.

c. on one or more occasions he invited Student A to his home;

In his police interview, Student A gave a detailed account of having visited Mr Naidoo's flat on one occasion prior to going to the cinema together (p.46-47). He also said that Mr Naidoo subsequently offered many times for Student A to visit, and even offered him a key to his home and the code to the main gate, so that he could access the flat without Mr Naidoo having to come and let him in (p.49).

The panel notes that on the occasion when Student A visited Mr Naidoo's flat, he believed that they were simply meeting at a particular location to go on to the cinema, and he did not realise that this was outside of Mr Naidoo's flat. Student A then subsequently resisted all other invitations to go to Mr Naidoo's flat, because he felt uncomfortable being in Mr Naidoo's flat.

Again, the panel considers these invitations to have been highly inappropriate given that Student A was under 18 at the time and was a recent former pupil.

The panel therefore finds this allegation proven.

d. whilst Student A was at his home Mr Naidoo:

i. rubbed Student A's chest;

Student A described in his police interview how Mr Naidoo sat right next to him in his flat, and briefly reached over and rubbed Student A's chest when laughing (p.46). This was clearly demonstrated by Student A on the video of his interview, and the panel finds this demonstration convincing.

The panel again considers this to have been inappropriate, for the same reasons as before.

The panel therefore finds this allegation proven.

ii. touched Student A's leg

Again, Student A clearly described and demonstrated in his police interview how Mr Naidoo showed the directions to the cinema on Student A's leg (p.46). This is also confirmed in Student A's written police statement, which also states that Student A was wearing shorts at the time, and he felt awkward about Mr Naidoo drawing on his leg with his finger (p.57).

The panel again considers this to have been inappropriate, for the same reasons as before.

The panel therefore finds this allegation proven.

e. on one or more occasions he told Student A that he loved him;

Student A described in his police interview how Mr Naidoo would make comments such as "you know I love you" and "you know how I feel when I hold you" (p.41). In the panel's view, Student A's demeanour when describing this was matter of fact, as if this was a completely normal occurrence.

The panel again considers this to have been inappropriate conduct, for the same reasons as before.

The panel therefore finds this allegation proven.

f. he told Student A that he never wanted him out of his life, or words to that effect;

Student A described in his police interview that at the school prom Mr Naidoo was drunk and gave Student A a long hug, while saying “you know I love you. Do not leave me. Me and you best buddies forever” (p.42). In addition, Student A confirmed in his written police statement that at the prom, Mr Naidoo “kept on telling me that he loved me and never wanted me out of his life” (p.58).

The panel again considers this to have been inappropriate conduct, for the same reasons as before.

The panel therefore finds this allegation proven.

g. when Student A was under age 18 Mr Naidoo took him to a pub and/or offered to buy him a pint;

Student A described in his police interview that before their trip to the cinema, Mr Naidoo took him to a pub, where Mr Naidoo offered to buy Student A a pint, but Student A declined (p.46). Student A’s written police statement also confirms this (p.57)

The panel again considers this to have been inappropriate conduct, for the same reasons as before. In any event, given that Student A was underage for drinking alcohol at the time, it was entirely inappropriate to offer to buy him a pint.

The panel therefore finds this allegation proven.

h. on one or more occasions he interacted with Student A socially outside the Academy;

Given the earlier findings, the panel is satisfied that Mr Naidoo interacted with Student A at his flat, in the pub and at the cinema. They also exchanged a number of text messages.

For the reasons stated earlier, the panel considers these interactions to have been inappropriate.

The panel therefore finds this allegation proven.

j. he paid Student A to complete teacher's work

In his police interview, Student A explained that he carried out some typing work for Mr Naidoo. Student A said that “it was just things from English literature books and things that would help him in his work, because he said he did not have time for it” (p.43). Student A said that Mr Naidoo paid him £60 for this work, which he gave him in cash.

The panel is satisfied that Student A was helping Mr Naidoo with his work. In the panel's view this is inappropriate behaviour for a teacher, particularly in the wider context of the other allegations involving Student A already found proven.

The panel therefore finds this allegation proven.

2. He behaved in an inappropriate manner towards Student B in that:

c. on one or more occasions he gave and/or bought him gifts and/or food;

In his written statement to the police, Student B said that Mr Naidoo bought him a mobile phone (p.59). He also said that Mr Naidoo would "sometimes come round to my house with food" (p.60).

The panel is mindful that Student B explained that he was struggling financially and that he was living at his uncle's, who could not support him. Witness A had described Student B's circumstances as "destitute". Although the panel could understand if Mr Naidoo wished to provide support to Student B, it is the panel's view that the appropriate course of action would have been to report Student B's circumstances to the pastoral team at the academy, and allow them to take the matter up with social services or to make use of the academy's hardship fund. Whilst the panel cannot say whether or not Mr Naidoo did report the matter, he nevertheless should not have taken it upon himself to give gifts and food to Student B.

In particular, a mobile phone is not an essential item, and in the panel's view it was entirely excessive and inappropriate for Mr Naidoo to have bought this for Student B.

The panel therefore finds this allegation proven.

d. he was found with a photograph of Student B in his possession

When Mr Naidoo was interviewed by the police, the police officer stated that during the booking in procedure Mr Naidoo was asked to empty his pockets and his wallet was opened up and this was found to contain three photographs (p.97). Subsequently, Witness A was asked to identify the people in the photos, and he confirmed to the panel that they were Students B and E.

In addition, Student B explained in his written police statement that he was aware that Mr Naidoo had a passport photo of him, but that Student B did not feel the need to ask for it back (p.60).

In the panel's view, there are no reasons whatsoever for a teacher to keep photos of his pupils or former pupils with him in his wallet, and this is entirely inappropriate.

The panel therefore finds this allegation proven.

3. He behaved in an inappropriate manner towards Student C in that:

a. he obtained his mobile phone number and/or email address whilst he was a current pupil

The panel notes that Student C's written police statement states that "It was around the middle of the school year that I became friendlier with Mr Naidoo and as a result he gave me his phone number and e-mail address. On a few occasions he e-mailed me..." (p.61).

It is clear to the panel that in order for Mr Naidoo to have e-mailed Student C, he must have obtained his e-mail address at some point. From Student C's description, the panel is satisfied that this happened whilst Student C was still a pupil at the academy.

There is no evidence that Mr Naidoo also obtained Student C's mobile phone number.

Nevertheless, the panel is of the view that pro-actively giving his own mobile number and e-mail address to a current student is likely to have been in order for him to acquire the same in return. The panel considers that this was inappropriate.

The panel therefore finds this allegation proven.

4. He behaved in an inappropriate manner towards Student D in that:

b. on one or more occasions he rubbed his shoulders;

The panel is mindful that Student D has been described by Witness A as a "cheeky-chappie" and as having behavioural issues. However, Witness A also told the panel that Student D's disruptive behaviour was low level, such as having his shirt untucked. Given Witness A's evidence that Student D could "play both sides", the panel has approached Student D's evidence with some caution.

The panel has had the benefit of seeing Student D's description and demonstration of an occasion when Mr Naidoo rubbed his hands on Student D's shoulders and down his arms.(p.68). The panel is of the view that Student D was clearly embarrassed and annoyed about the incident and he was uncomfortable discussing it. The panel has found his demeanour very authentic and compelling. Therefore, on balance, the panel believes Student D's version of events.

The panel further considers that this behaviour by Mr Naidoo was inappropriate. Mr Naidoo had undergone regular safeguarding training at the academy and would have known that there would need to be exceptional circumstances to justify teachers touching pupils, such as breaking up a fight. In this case, there was no reason to rub Student D's shoulders and arms at all, and Mr Naidoo's behaviour was completely inappropriate.

The panel therefore finds this allegation proven.

c. on one or more occasions he promised a gift in return for good behaviour

In his interview with the police, Student D described how Mr Naidoo said to him that “If you stay in my lessons and be good I will buy you what you want and I will give you something that you want”. In response Student D said he suggested getting an iPod, whilst a girl in the classroom suggested a trip (p.66-67).

The panel notes that Student D’s mum confirmed to the police in her written statement that Student D had told her that Mr Naidoo was going to buy him an iPhone for good behaviour (p.76).

The panel considers such promises of gifts by teachers to pupils for good behaviour to be completely inappropriate. This is particularly so given that the academy had in place a reward policy whereby pupils could already be rewarded for behaving well.

The panel therefore finds this allegation proven.

5. He behaved in an inappropriate manner towards Student E in that:

a. on one or more occasions he hugged Student E;

The panel has had the benefit of seeing Student E’s interview with the police. In this, Student E described how at the prom Mr Naidoo hugged a few people, including Student E himself. Student E vividly described how Mr Naidoo was crying as he hugged him and said that “you are like a son to me” (p.84-85). He also said that the hug was “like you are saying goodbye” and that it lasted “a few minutes” (p.90).

The panel is of the view that it is entirely inappropriate behaviour.

The panel therefore finds this allegation proven.

b. on one or more occasions he interacted with Student E socially outside the Academy;

In his interview with the police, Student E described an occasion when he went to Mr Naidoo’s flat, when a friend of Mr Naidoo’s from South Africa was visiting London. He said they were in his flat for an hour and a half to two hours (p.90).

In addition, Student E said that he was friends with Mr Naidoo on Facebook and that they exchanged messages on WhatsApp.

The panel is therefore satisfied that they interacted socially outside of the Academy. The panel considers this to have been inappropriate, given that Student E was under the age of 18 at the time, and Mr Naidoo only knew him from his capacity as Student E’s teacher. Through this conduct, Mr Naidoo crossed professional boundaries.

The panel therefore finds this allegation proven.

c. on one or more occasions he invited Student E to his home;

Given the previous findings, the panel is satisfied that Student E was in Mr Naidoo's home on at least the one occasion when the South African friend was visiting. The panel is of the view that Mr Naidoo must have invited Student E, in order for him to have been there.

Again, for the reasons given in the previous finding, the panel considers this conduct to have been inappropriate.

The panel therefore finds this allegation proven.

d. on one or more occasions Student E visited Mr Naidoo's home;

For the reasons given in respect of allegation 5.c, the panel finds this allegation proven.

e. on one or more occasions he told Student E that he loved him;

In his interview with the police, Student E explained that at the end of their conversations on WhatsApp, Mr Naidoo would sometimes say "I love you son" (p.89).

The panel considers it important for teachers to maintain professional boundaries, even with former pupils, and therefore the use of familial language such as this in this context, is inappropriate.

The panel therefore finds this allegation proven.

f. he told Student E that he was like a son to him, or words to that effect;

In his interview with the police, Student E described how it was common for him to call Mr Naidoo "dad". He explained that his parents were abroad, and Mr Naidoo would offer to help, and he would call Student E "son" (p.90). Similarly, as noted earlier, Mr Naidoo would sometimes close conversations on WhatsApp with "I love you son" (p.89).

As previously, the panel is satisfied that this conduct was entirely inappropriate.

The panel therefore finds this allegation proven.

g. on one or more occasions he used the term and/or allowed the following terms to be used:

i. dad in reference to Mr Naidoo himself;

ii. son in reference to Student E

As already found proven in respect of allegation 5.f, the panel is satisfied that Mr Naidoo sometimes called Student E "son". In addition, he allowed himself to be called "dad", and he told Student E that "I get happy when you call me 'dad'" (p.90).

For the reasons previously stated, the panel considers this behaviour to be inappropriate.

The panel therefore finds this allegation proven.

h. he was found with a photograph of Student E in his possession

As already found in respect of allegation 2.d, when Mr Naidoo was interviewed by the police, the police officer stated that during the booking in procedure Mr Naidoo was asked to empty his pockets and his wallet was opened up and this was found to contain three photographs (p.97). Subsequently, Witness A was asked to identify the people in the photos, and he confirmed to the panel that they were Students B and E.

In addition, Student E explained in his police interview that Mr Naidoo had asked to keep his passport photo and Student E agreed (p.91).

As noted earlier, in the panel's view, there are no reasons whatsoever for a teacher to keep photos of his pupils or former pupils with him in his wallet, and this is inappropriate.

The panel therefore finds this allegation proven.

6. His conduct as described at paragraph 1 and/or paragraph 2 and/or paragraph 3 and/or paragraph 4 and/or paragraph 5 above was sexually motivated.

The panel has considered each of paragraphs 1 to 5 in the round, given that many of the sub-particulars arise from the same or similar incidents.

The panel is mindful that Mr Naidoo has not been present at the hearing and the panel has not had the opportunity to directly assess his motivation when he carried out the conduct found proven. Nevertheless, the panel is satisfied that there is sufficient evidence before it to enable it to infer Mr Naidoo's motivation.

In particular, the panel has given careful consideration to whether Mr Naidoo's conduct may have been as a result of his cultural background (a South African Indian, according to Witness A) and the multi-cultural nature of the academy's student population. The panel is mindful that some cultures may be more tactile or open about their feelings. However, the panel does not consider that this could be an explanation for Mr Naidoo's actions. He was an advanced skills teacher, with many years' experience in the UK educational system. He had substantial training on pupil safeguarding and would have been aware of the academy's policies on contact with pupils, both in terms of physical contact and social contact outside of academy. He must have known that his actions were contrary to the academy's ethos and policies.

In relation to allegation 1 in respect of Student A, the panel has found proven that Mr Naidoo engaged in flirtatious messages with Student A, procured Student A's attendance at his home, whilst at home, he rubbed Student A's chest and touched his bare leg, and

subsequently took him to a pub and offered to buy him a pint. He also told Student A that he loved him and never wanted him out of his life.

In assessing Mr Naidoo's motivation, the panel also found it significant that Student A told the police that Mr Naidoo had invited him to Brighton (p.45), had suggested that Student A sleeps over at his flat (p.48) and that whilst Student A was in his home, Mr Naidoo's "bum crack" was showing "the whole time" (p.46).

The panel considers that this showed a pattern of behaviour of seeking to get close to Student A and gradually introducing interactions of a flirtatious and sexual nature.

The panel is therefore satisfied that Mr Naidoo's conduct towards Student A was sexually motivated.

In respect of allegation 2 relating to Student B, the panel has considered whether Mr Naidoo's intentions could have been merely to support a potentially vulnerable student who was relatively new to the UK and struggling financially. However, the panel does not consider that this alone explains his behaviour towards Student B, as this does not justify why Mr Naidoo would keep a photograph of Student B in his wallet. Given his possession of the photograph, as well as his wider pattern of behaviour of seeking to get close to vulnerable pupils, the panel considers that Mr Naidoo's motivation towards Student B was sexual.

In relation to allegation 3 relating to Student C, the panel has found that Mr Naidoo obtained his e-mail address. In itself, the panel does not consider this sufficient to demonstrate sexual motivation on Mr Naidoo's part.

In connection with allegation 4, regarding Student D, the panel has found that Mr Naidoo offered him a gift in exchange for good behaviour and that he rubbed Student D's shoulders and arms. The panel has considered whether this conduct might have been Mr Naidoo's misguided attempts to deal with the low level disruptive behaviour of this pupil. However, the panel does not consider this a plausible explanation for his actions. Mr Naidoo's conduct appears to follow the pattern demonstrated in respect of the other pupils, in that he was seeking to gain favour and get close to this pupil. In particular, the rubbing of the shoulders and arms demonstrated by Student D in his police interview was of a nature which in the panel's view could not be explained as part of any normal interactions between a teacher and a pupil. The panel is of the view, therefore, that Mr Naidoo's actions towards Student D were sexually motivated.

Finally, in relation to allegation 5, in respect of Student E, the panel considers it significant that Mr Naidoo repeatedly told him that he loved him, allowed Student E to visit his home, and kept a photograph of Student E in his wallet. In addition, Student E told the police that he became aware that Mr Naidoo was gay when he was at Mr Naidoo's home with his South African friend and they were all "talking about different sexual relationships" (p.90). In the panel's view, there is no legitimate reason for a

teacher to discuss sexual relationships with a pupil in the teacher's own home. Again, the panel considers that Mr Naidoo's behaviour shows a consistent pattern, and in the panel's view, Mr Naidoo's conduct towards Student E was sexually motivated.

Overall, given the number and vulnerabilities of students involved and the similarities of Mr Naidoo's conduct towards them, the panel finds that this demonstrates a pattern of behaviour. The panel considers that Mr Naidoo was breaking down the teacher-pupil relationship over the time the students were at the academy. The panel's view is that Mr Naidoo was seeking to build a closer relationship, particularly towards the end of the students' last year. On the balance of probabilities, the panel considers that this was to continue their contact, with the potential to develop a sexual relationship once the students had left academy.

The panel therefore finds this allegation proven.

The panel has found the following particulars of the allegations against Mr Naidoo not proven, for these reasons:

1. he behaved in an inappropriate manner towards Student A in that:

a. on his last day of term Mr Naidoo requested his mobile phone number;

In his interview with the police, Student A merely stated that Mr Naidoo swapped numbers with some students (p.45). However, there is no evidence that Mr Naidoo specifically requested Student A's mobile phone number.

In the circumstances, the panel does not find this allegation proven.

b. on one or more occasions he communicated in an inappropriate and/or flirtatious manner via:

ii. Facebook;

Whilst Student A confirmed to the police that he connected with Mr Naidoo on Facebook, there is no evidence before the panel of the nature of any messages that may have been exchanged via Facebook.

As a result, the panel does not find this allegation proven.

i. on one or more occasions he gave and/or bought Student A gifts and/or food,

Student A told the police in his interview that when they went to the pub together, they shared some food. He also said that Mr Naidoo had offered to buy him various items such as clothes. However, Student A also said that he refused all these offers.

Consequently, there is no evidence before the panel that Mr Naidoo did actually buy or give Student A gifts and/or food, and the panel finds this allegation not proven.

2. he behaved in an inappropriate manner towards Student B in that:

a. on one or more occasions he interacted with Student B socially outside the Academy;

The panel notes that there is an unsigned, draft witness statement for Student B in the bundle of documents before the panel (p.25-27). Given that Student B did not appear before the panel and has provided no other indication of the truth of the contents of this statement, the panel gives no weight to this document.

The panel considers that Student B's signed statement to the police (p.59-60) is more persuasive.

However, this does not contain any evidence of social interactions with Mr Naidoo outside of the academy.

The panel therefore does not find this allegation proven.

b. he visited Student B's home

In his written statement to the police, Student B said that Mr Naidoo "would sometimes come round to my house with food" (p.60), and the panel has no reason to disbelieve this statement.

The panel has gone on to consider whether this was behaving in an inappropriate way towards Student B. In the panel's view, it is highly inadvisable to visit a pupil at home, particularly when they are living on their own. However, the panel notes the wider context that this pupil was destitute at the time, and it is plausible that Mr Naidoo was simply trying to help.

In the circumstances, on the balance of probabilities, the panel does not find this allegation proven.

3b. on one or more occasions he gave and/or bought Student C gifts and/or food

The panel found no evidence that Mr Naidoo bought or gave Student C food.

However, in his written police statement, Student C described that Mr Naidoo gave him a denim jacket as a gift (p.62).

Despite the fact that the panel is of the view that buying pupils gifts is entirely inappropriate behaviour of a teacher, the panel is mindful of the precise wording of this allegation, and cannot find evidence of more than one gift.

The panel therefore finds this allegation not proven.

4. he behaved in an inappropriate manner towards Student D in that:

a. on one or more occasions he hugged Student D

The panel can find no evidence of this at all, and therefore finds this allegation not proven.

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

Having found many of the allegations to have been proven, including that of sexual motivation, the panel has gone on to consider whether the facts of those proven allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

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

The panel is satisfied that Mr Naidoo’s conduct in relation to the facts found proven, involved breaches of the Teachers’ Standards, in particular:

- 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; and
- 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 Mr Naidoo’s conduct fell significantly short of the standards expected of the profession. He was in a position of trust and all students concerned had their own individual vulnerabilities.

The panel has also considered whether Mr Naidoo’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has concluded that the only potentially relevant offences would be in connection with “sexual activity”. However, Mr Naidoo has not engaged in any sexual “activity”, and therefore the panel does not consider this relevant.

The panel notes that much of Mr Naidoo's conduct took place outside of the education setting, and therefore the panel has considered the provisions of the advice which state that misconduct outside of the education setting will only amount to unacceptable professional conduct if it affects the way the person fulfils their teaching role or may lead to pupils being exposed to or influenced by the behaviour in a harmful way. In Mr Naidoo's case, the panel is satisfied that pupils are at risk of being exposed to harmful behaviour. Mr Naidoo's behaviour demonstrated a consistent pattern of conduct in that he sought to gain favour with and get close to potentially vulnerable pupils, and he gradually built on that position of trust to cross professional boundaries and introduce sexually motivated conversations and conduct.

Accordingly, the panel is satisfied that Mr Naidoo is guilty of unacceptable professional conduct.

The panel has also considered whether Mr Naidoo's conduct also amounts to conduct which 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.

Quite clearly, sexually motivated conduct by a teacher towards potentially vulnerable pupils would be seen by the public as wholly unacceptable. The findings of misconduct are serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore finds that Mr Naidoo's behaviour also constitutes conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, the panel has gone on to consider whether to recommend the imposition of a prohibition order by the Secretary of State. In doing so, the panel has considered whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. The panel is 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 has considered the particular public interest considerations set out on page 9 of the Advice and has found all of them to be relevant in this case. Clearly, pupils, and other members of the public, such as former pupils, need to be protected from conduct such as that found against Mr Naidoo. There is also a strong public interest consideration in the maintenance of public confidence in the profession, as the public's confidence in

the profession could be seriously weakened if conduct such as that found against Mr Naidoo were not treated with the utmost seriousness when regulating the conduct of the profession. Further, the panel considers that there is a strong public interest consideration in declaring proper standards of conduct, as the conduct found against Mr Naidoo was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel has 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 Naidoo.

In carrying out the balancing exercise the panel has taken account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that the panel considers relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the ... well-being of pupils, and particularly where there is a continuing risk;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils)... and
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

In particular, the panel is strongly of the view that this final bullet point captures succinctly its findings against Mr Naidoo.

Nevertheless, 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. The panel notes that Mr Naidoo was highly regarded by the pupils as well as Witness A, and was an advanced skills teacher. He has a previously good history.

However, this mitigating factor alone is not strong enough, in the panel's view, to outweigh the public interest considerations in favour of a prohibition order being recommended. His actions were deliberate and he was not acting under duress. His conduct was particularly serious given the panel's findings of sexually motivated conduct over a sustained period of time, towards a number of vulnerable pupils. Some of his behaviour was in plain sight within the academy, which suggests an attempt to normalise his inappropriate behaviour with pupils.

Therefore, the panel is of the view that prohibition is both proportionate and appropriate. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The panel notes that the Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these is serious sexual misconduct, for example where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons.

In Mr Naidoo's case, the panel is strongly of the view that this description applies to him. The panel has already found that his actions were sexually motivated and had the potential to result in harm to the students. Indeed, some of the students did feel uncomfortable or embarrassed by his actions. The panel was particularly concerned that Mr Naidoo had used his professional position to strengthen the trust of these students, and develop closer relationships with them after they left the academy. The panel considers it unlikely that these students would have engaged with Mr Naidoo in the same way had he not been their teacher.

Further, the panel was concerned to note that Mr Naidoo had not engaged with any of the investigations into the allegations at any stage. He has provided no indication of any insight into or remorse for his actions, nor demonstrated an intention to learn from his conduct or a commitment to abiding by the Teachers' Standards. In the circumstances, the panel does not see any reason to depart from the guidance set out in the Advice.

Consequently, the panel recommends that the prohibition order be imposed with no provision for Mr Naidoo to apply for it to be set aside after any period of time.

Decision and reasons on behalf of the Secretary of State

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

I have also noted that in this case the panel did not find all of the allegations proven. For those allegations that were not found proven, I have put them from my mind entirely.

The panel has however set out very clearly the allegations that they have found proven and set out where they have made findings of unacceptable professional conduct and conduct that is likely to bring the profession into disrepute.

I have noted that the panel is satisfied that Mr Naidoo's conduct in relation to the facts found proven, involved breaches of the Teachers' Standards, in particular:

- 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; and
- 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.

I am satisfied that Mr Naidoo's conduct fell significantly short of the standards expected of the profession. He was in a position of trust and all students concerned had their own individual vulnerabilities.

I have read the guidance that is published by the Secretary of State and taken that into account. I have also taken into account the need to be proportionate. I have also taken into account the public interest as well as the interests of Mr Naidoo.

I have taken into account the list of behaviours that the panel considers relevant in this case, which are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the ... well-being of pupils, and particularly where there is a continuing risk;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils)... and
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

I have taken into account the comment made by the panel that, in particular, it was strongly of the view that the final bullet point above captures succinctly its findings against Mr Naidoo.

Having taken all those factors into account and having considered the panel's recommendation to me, I support that recommendation that Mr Naidoo should be subject to a prohibition order.

I have gone on to consider the panel's recommendation in respect of a review period. I have noted that Mr Naidoo was highly regarded by the pupils as well as Witness A, and that he was an advanced skills teacher. He has a previously good history.

Mr Naidoo's actions were deliberate and he was not acting under duress. His conduct was particularly serious given the panel's findings of sexually motivated conduct over a sustained period of time, towards a number of vulnerable pupils.

I have noted the comments from the panel that Mr Naidoo has provided no indication of any insight into or remorse for his actions, nor demonstrated an intention to learn from his conduct or a commitment to abiding by the Teachers' Standards. In the circumstances, and for the reasons set out, I support the panel's recommendation that there should be no review period.

This means that Mr Preantharan Naidoo is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Preantharan Naidoo shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Preantharan Naidoo 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.



Decision maker: Alan Meyrick

Date: 27 July 2016

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