



National College for  
Teaching & Leadership

# **Mr Simon Charles Bickford-Smith: Professional conduct panel outcome**

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

**June 2016**

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

**Teacher:** Mr Simon Charles Bickford-Smith  
**Teacher ref number:** 9960807  
**Teacher date of birth:** 3 March 1977  
**NCTL case reference:** 13228  
**Date of determination:** 7 June 2016  
**Former employer:** The Sixth Form College, Farnborough

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 6 and 7 June 2016 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Simon Charles Bickford-Smith.

The panel members were Mr Steve Oliver (teacher panellist – in the chair), Mr Keith Jackson-Horner (teacher panellist) and Mrs Alison Platts (lay panellist).

The legal adviser to the panel was Ms Patricia D’Souza of Eversheds LLP.

The presenting officer for the National College was Ms Samantha Paxman of Browne Jacobson LLP.

Mr Bickford-Smith was not present and was not represented.

The hearing took place in public and was recorded, save for the application for the hearing to be in private, which was heard in private.

## B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 23 February 2016 (as amended – see below).

It was alleged that Mr Bickford-Smith was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at the Sixth Form College, Farnborough in 2014-2015:

1. He engaged in an inappropriate relationship with Pupil A, whilst she was a pupil at the College in that he:
  - a. Gave her his personal email address;
  - b. Exchanged emails with her using his personal email address;
  - c. Engaged in inappropriate communication and interaction using social media;
  - d. Made public images of an inappropriate nature, knowing that Pupil A had access to those images;
  - e. Met up with Pupil A outside of college on one or more occasion;
  - f. Kissed her on one occasion or more;
  - g. Engaged in sexual activity with her on one occasion or more.
2. In so doing one or more of 1a-g above, his conduct was sexually motivated.
3. He failed to pass on important safeguarding information to the appropriate staff regarding Pupil A.

In the statement of agreed facts, Mr Bickford-Smith admits the particulars of allegation 3 and that this amounts to unacceptable professional conduct and/or conduct which may bring the profession into disrepute. However, Mr Bickford-Smith does not admit the particulars of allegations 1 and 2. As the factual particulars of the allegations as a whole have not been admitted this matter is proceeding as a disputed case.

## C. Preliminary applications

### Proceeding in absence

The panel has considered whether this hearing should continue in the absence of Mr Bickford-Smith.

The panel is satisfied that the National College has complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel is also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel has determined to exercise its discretion under Paragraph 4.29 of the Procedures to proceed with the hearing in the absence of Mr Bickford-Smith.

The panel understands that its discretion to commence a hearing in the absence of the 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 has 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. The Notice of Proceedings was sent to Mr Bickford-Smith's last known address on 23 February 2016, and following this, he has provided a completed Notice of Proceedings Form to the National College dated 17 March 2016. The panel are therefore satisfied that Mr Bickford-Smith is aware of these proceedings. Also, within the Notice of Proceedings Form, Mr Bickford-Smith confirmed that he did not intend to attend today's hearing. The presenting officer advised the panel that Mr Bickford-Smith has not provided any reason to the National College for his absence or requested an adjournment. The panel therefore considers that Mr Bickford-Smith has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The presenting officer submitted that the National College has sent Mr Bickford-Smith emails in the course of these proceedings. Mr Bickford-Smith did not respond to any of these emails however no error messages were generated, which the presenting officer submitted meant such emails had been received.

The panel has had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. The presenting officer submitted that Mr Bickford-Smith has provided no indication that an adjournment might result in Mr Bickford-Smith attending the hearing. Mr Bickford-Smith has also indicated in the Notice of Proceedings form that he does not intend to be legally represented at the hearing.

The panel has had regard to the extent of the disadvantage to Mr Bickford-Smith in not being able to give his account of events, having regard to the nature of the evidence

against him. The panel has details of the relevant college's preliminary investigation and also has the Statement of Agreed Facts which relates to allegation 3. The panel considers it is able to ascertain the lines of defence. The panel has noted that witnesses relied upon are to be called to give evidence and the panel can test that evidence in questioning those witnesses, considering such points as are favourable to Mr Bickford-Smith, as are reasonably available on the evidence. The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard Mr Bickford-Smith's account.

The panel also notes that there is a vulnerable witness present, who is prepared to give evidence, and that it would be inconvenient and distressing for her and her witness supporter to return again. There is also a second witness who is present that has taken time to attend the hearing today.

The panel has had regard to the seriousness of this case, and the potential consequences for Mr Bickford-Smith and has accepted that fairness to the teacher is of prime importance. However, it considers that in light of Mr Bickford-Smith's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time, is in favour of this hearing continuing today.

#### Excluding the public

The panel has considered whether to exercise its discretion under paragraph 11 of the Regulations and paragraph 4.57 of the Procedures to exclude the public from all or part of the hearing. This follows a request, contained within the Notice of Proceedings Form, from Mr Bickford-Smith that the hearing should be in private. Mr Bickford-Smith's reasoning for this request was the negative impact that a public hearing would have on the health of his close relatives.

The presenting officer invited the panel to consider holding some parts of the hearing in private when Pupil A gives her oral evidence in case any sensitive health matters are referred to.

The panel has determined not to exercise its discretion under paragraph 11(3)(b) of the Regulations and the second bullet point of paragraph 4.57 of the Procedures that the public should be excluded from the entire hearing.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of

these proceedings and also to maintain confidence in the teaching profession. The panel has noted that there are concerns about the health of Mr Bickford-Smith's close relatives being affected by this matter being placed in the public domain. However, the panel note that no independent evidence of the health concerns of Mr Bickford-Smith's relatives has been provided. The panel has balanced the reasons why Mr Bickford-Smith has requested that the public be excluded against the competing reasons for which a public hearing is required.

The panel notes that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing is preferable to a permanent exclusion of the public. The panel has therefore, considered whether there are any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to either Mr Bickford-Smith's health or that of his relatives, and considers that to the extent it becomes necessary during the course of the hearing to discuss the health of any individual relating to this case, the panel can consider at that stage whether to exclude the public from that portion of the hearing only.

#### Amend allegations

The presenting officer also made an application to amend the wording of allegation 1d. The presenting officer submitted that there is a formatting error which has resulted in wording that should form part of the particulars of allegation 1d. "access to those images" being particularised as a separate allegation, allegation 1e. The formatting of the rest of allegation 1 has been incorrectly calculated and should only refer to allegation 1a to 1g instead of 1a to 1h as currently set out in the Notice of Proceedings.

The panel were advised that under paragraph 4.56 of the Procedures, the panel has the power to, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

The test for the panel to consider is one of the interests of justice and that includes a consideration of whether there is a risk that prejudice would be caused to Mr Bickford-Smith if the amendment was to be allowed. If such a risk exists, the panel must consider whether it would be just to allow the application.

Generally, an amendment will cause unfairness or prejudice if it changes the nature of the allegation or makes it more serious than before, or changes the factual basis upon which the allegation is founded.

The panel considers that removing allegation 1e. in its entirety and amending the wording of allegation 1d so that it states “Made public images of an inappropriate nature knowing that Pupil A had access to those images” does not change the nature of the allegations against Mr Bickford-Smith. Such an amendment does not make allegation 1d more serious than before or change the factual basis upon which this allegation is founded. The panel considered that this amendment simply corrected a typographical error which caused no prejudice to Mr Bickford-Smith, despite his absence at the hearing, and would not cause him to present his case any differently (as the factual basis of the allegations have not changed). The panel noted that the National College had written to Mr Bickford-Smith on 31 May 2016 to notify him of the formatting error in allegation 1. The panel therefore agreed to remove allegation 1e. and amend the wording of allegation 1d. as referred to above. The panel also agreed to align the rest of the formatting of allegation 1 from 1a. to 1h. (which contained the formatting error) to 1a. to 1g.

## **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 1 to 3

Section 2: Notice of Proceedings and Response – pages 4 to 16

Section 3: National College’s witness statements – pages 17 to 34

Section 4: National College’s documents – pages 35 to 146

Section 5: Teacher documents – page 147

In addition, the panel agreed to accept the following:

Section 6: Additional documents – pages 148 to 149.

Letter from the National College of 31 May 2015 to Mr Bickford-Smith

Proof of posting of the letter of 31 May 2016 to Mr Bickford-Smith

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 on behalf of the National College:

1. Pupil A
2. Witness A – Deputy Principal of the Sixth Form College, Farnborough.

## 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.

Mr Bickford-Smith had been employed at the Sixth Form College, Farnborough (“the College”) since September 2005. Mr Bickford-Smith was an experienced personal tutor at the College which meant he had pastoral care responsibilities for pupils. He also taught two biology classes. Mr Bickford-Smith received specific training on safeguarding beyond that received by other members of staff who did not have safeguarding responsibilities. On 18 December 2014 the College received an allegation that Mr Bickford-Smith had formed an inappropriate relationship with Pupil A when she was aged 17. The College commenced a preliminary investigation. Mr Bickford-Smith resigned from the College on 19 January 2015.

## Findings of fact

The panel’s findings of fact are as follows:

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

**You are guilty of unacceptable professional conduct and/or conduct which may bring the profession into disrepute in that whilst employed at the Sixth Form College, Farnborough in 2014-2015:**

- 1. You engaged in an inappropriate relationship with Pupil A, whilst she was a pupil at the College in that you:**
  - a. Gave her your personal email address;**

Pupil A’s oral evidence was that she emailed Mr Bickford-Smith from her College email address after he attended her Extended Project Qualification (“EPQ”) presentation to thank him for attending and being sympathetic and supporting her when she needed it. Mr Bickford-Smith was Pupil A’s personal tutor.

The panel noted from the record of Mr Bickford-Smith's interview with the College on 15 January 2015 that when asked if he had swapped private email addresses with Pupil A, he stated that he emailed her College mail from his private email address. When later questioned by the College whether he had shared email details with Pupil A he said "yes".

The panel therefore found this allegation proven.

**b. Exchanged emails with her using your personal email address;**

The panel noted from Pupil A's witness statement that first she and Mr Bickford Smith, exchanged messages via their College email addresses but over time, Mr Bickford-Smith emailed her from his personal email address. Further, in her statement, Pupil A stated that the tone of these emails were "purely teacher-student" at first but they became quite "flirtatious" and suggestive at times.

In addition, the panel noted from the Statement of Agreed facts that Mr Bickford-Smith stated that he sent Pupil A an email from his private email account expressing concern after seeing a photo on her photo blog.

Taking all the above into account, the panel found this allegation proven.

**c. Engaged in inappropriate communication and interaction using social media;**

In her oral evidence, Pupil A stated that the Instagram profile she has available online is through a mobile application which enables users to upload photos for either public view or for private recipients only. In her statement, she confirmed that, after watching her deliver her EPQ presentation, Mr Bickford-Smith sat next to Pupil A and accessed Pupil A's Instagram profile on an iPad or tablet and began to view and "like" the pictures and "followed" her on this.

Pupil A further stated in oral evidence that a Tumblr account is an online blogging site which enables users to upload photos and send text messages. Pupil A believed that the settings on Mr Bickford-Smith's Tumblr account were private.

Further in her statement, Pupil A stated that around mid to late November 2014, Mr Bickford-Smith began to follow her on her Tumblr account.

Witness A indicated in her witness statement that Mr Bickford-Smith was aware that Pupil A was 'following' him on his Tumblr account and that he had shared his Tumblr account details with Pupil A and he had not reported this to anyone at the College. In the record of his investigation interview with the College on 15 January 2015, Mr Bickford-Smith is recorded as stating that he did not appreciate the problem of seeing Pupil A's Tumblr account at the time.

When using her own Tumblr account, Pupil A indicated, in her witness statement, that she posted a picture of herself which exposed her collar bone to which Mr Bickford-Smith replied that those “collar bones walk into [his] office every day”.

The panel considered communicating/interacting with a pupil in this manner via Instagram and Tumblr was highly unprofessional and crossed the boundaries of an appropriate pupil/teacher relationship. The panel therefore found this allegation proven.

**d. Made public images of an inappropriate nature, knowing that Pupil A had access to those images;**

In her witness statement, Pupil A stated that in early December 2014, Mr Bickford-Smith gave to Pupil A the password to his Tumblr account which was private and so only those with a password could access it. On one occasion Mr Bickford-Smith placed a full frontal nude picture on there, and Pupil A confirmed in oral evidence this shocked her and “changed the dynamic of their relationship”.

Witness A referred the panel to specific photographs included on Mr Bickford-Smith’s Tumblr site that the College was able to access. The College found that the Tumblr account had been linked to Mr Bickford-Smith’s College email address. Witness A considered the photographs of a female naked bottom, naked male torsos, the spine of a female and a picture of a female’s collar bone were inappropriate images for Mr Bickford-Smith to share with any pupil of the College. Pupil A stated in oral evidence that Mr Bickford-Smith was aware that she was following his Tumblr site and therefore knew she could access such inappropriate images.

In her closing submissions the presenting officer drew the panel’s attention to the record of the College’s meeting with Mr Bickford-Smith of 15 January 2015. The record reflects that Witness A showed Mr Bickford-Smith a naked male torso and asked whether this was a picture of himself, to which Mr Bickford-Smith replied it was. Mr Bickford-Smith further stated in the investigation meeting that he believed that the pictures were private and he had not intended that anyone else could access them, he thought they were only linked to his personal email account. When questioned by the panel, Witness A confirmed that she did not consider that Mr Bickford-Smith was telling the truth as he would often update Witness A on how different social media sites could be accessed publicly and/or privately, as he was knowledgeable about such things. Witness A considered that Mr Bickford-Smith intended to publish such images for others to see.

Pupil A’s oral evidence was that Mr Bickford-Smith emailed her to ask her whether she had seen the picture of the naked torso on his Tumblr account. Pupil A was not certain that the picture of the naked torso was a picture of Mr Bickford-Smith.

The panel preferred the evidence of Pupil A and Witness A. It considered that Mr Bickford-Smith posted inappropriate images of naked body parts on his Tumblr account and facilitated Pupil A accessing these. This allegation is therefore found proven.

**e. Met up with Pupil A outside of college on one or more occasion;**

Pupil A stated in oral evidence that on separate occasions, Mr Bickford-Smith and she met up at the local industrial park and drove to a local country park to take photographs.

The notes of the investigation meeting with the College on 15 January 2015 indicate that Mr Bickford-Smith initially denied meeting up with Pupil A on his own “off-site”. However, when advised that Pupil A had confirmed that he arranged to meet her at McDonalds after her EPQ presentation, he recalled that this did happen, however he did not arrange to meet Pupil A, she arrived there at the same time in a separate car, not together. The panel did not consider Mr Bickford-Smith’s explanation plausible.

Pupil A also stated in her oral evidence and written statement that Mr Bickford-Smith invited her to his flat on another occasion, initially, for a coffee.

The panel found this allegation was proven.

**f. Kissed her on one occasion or more;**

In her witness statement, Pupil A referred to the time when Mr Bickford-Smith and she had visited a local country park to take photographs. At one point, a picture was taken of Mr Bickford-Smith’s hand on the inside of Pupil A’s thigh. After taking photographs Pupil A sat with Mr Bickford-Smith in his car and he started to touch her collar bone, lips and face and began to kiss her. Pupil A indicated in her oral evidence that she had not been expecting this and was surprised by Mr Bickford-Smith kissing her. Upon further questioning by the panel, Pupil A confirmed that Mr Bickford-Smith kissed her passionately and for an extended amount of time. They also kissed several times in his office at the College with the blinds drawn.

Mr Bickford-Smith denied kissing Pupil A when questioned by the College in the investigation meeting on 15 January 2015.

Although Pupil A was visibly distressed whilst giving oral evidence, the panel found Pupil A’s evidence to be consistent and credible.

The panel found this allegation proven.

**g. Engaged in sexual activity with her on one occasion or more.**

Pupil A stated in oral evidence that Mr Bickford-Smith invited her to his flat for coffee where he lived on his own. Pupil A also stated to the panel that she and Mr Bickford-Smith kissed on this occasion and also had sexual intercourse at his flat. The panel noted from documentation, in the bundle, reflecting the safeguarding log on the College’s system, that the sexual intercourse was stated as having taken place in Mr Bickford-Smith’s car. The panel explored the discrepancy over the location of the sexual activity with both Pupil A and Witness A, who confirmed in oral evidence that it took place at Mr Bickford-Smith’s flat.

The panel noted from the record of his investigation meeting with the College that Mr Bickford-Smith denied having sexual intercourse with Pupil A.

The presenting officer invited the panel to prefer the evidence of Pupil A and that, on the balance of probabilities, Pupil A's evidence is supported by the hearsay evidence of Pupil C contained within a statement Pupil C made as part of the College's investigation. Pupil C was Pupil A's best friend at the time and in her oral evidence, Pupil A confirmed she confided in Pupil C from the outset. Pupil C was disapproving of the relationship between Pupil A and Mr Bickford-Smith. The panel considered that Pupil A's account of events is corroborated by Pupil C.

In addition, when questioned by the panel, Witness A confirmed that she found Pupil A to be credible and had no reason to believe that Pupil A would have made any allegations up. When the panel asked Pupil A why it should believe her version of events compared to that of Mr Bickford-Smith, she said she would not put herself through the stress and distress of giving oral evidence if she had made things up. The panel did prefer the evidence of Pupil A.

The panel found allegation 1g proven.

Having found the factual particulars of allegation 1a. to 1g. to be proven, the panel consider that each of allegations 1a. to 1g. is evidence of Mr Bickford-Smith engaging in an inappropriate relationship with Pupil A whilst she was a pupil at the College. Therefore the panel found allegation 1 proven in its entirety.

## **2. In so doing one or more of 1a-g above, your conduct was sexually motivated.**

The panel was advised by the legal advisor that the first question the panel needs to ask itself is whether reasonable persons would think the facts found proven against Mr Bickford-Smith could be sexual i.e. an objective test. If so, the panel would then need to go on to ask itself a second question: whether, in all the circumstances of the conduct in the case, Mr Bickford-Smith's purpose towards Pupil A was sexual, i.e. the subjective test.

The presenting officer submitted to the panel that the panel is entitled to find in relation to any of the particulars 1a. to 1g. evidence of sexualised conduct and sexually motivated behaviour towards Pupil A. The presenting officer submitted that if the panel find there is evidence that Mr Bickford-Smith kissed Pupil A, had placed inappropriate naked images on his Tumblr account for Pupil A to see, and/or had sexual activity with Pupil A, then it is entitled to find his behaviour to be sexually motivated.

The panel considered that a reasonable person would consider that Mr Bickford-Smith's conduct towards Pupil A was sexually motivated. Kissing Pupil A passionately when in a country park, and in his office at the College (with the blinds drawn) was evidence of this. Pupil A's oral evidence was that sexual intercourse took place at Mr Bickford-Smith's flat

when he invited her over for a coffee. Even though Mr Bickford-Smith denied such intercourse taking place, when questioned by the College in the investigation meeting, the panel preferred the evidence of Pupil A. The panel considered that, subjectively, the purpose of Mr Bickford-Smith's conduct towards Pupil A was sexual. The panel therefore found both the objective and subjective test was met.

This allegation is therefore found proven.

### **3. You failed to pass on important safeguarding information to the appropriate staff regarding Pupil A.**

Pupil A recalls uploading a photo of herself to her photo blog which indicated a health issue and she recalls that Mr Bickford-Smith emailed her about this as he was worried about her.

The presenting officer submitted that the Statement of Agreed Facts reflects Mr Bickford-Smith admitting that he noticed a photograph of Pupil A on her photo blog that might have suggested a health concern. Mr Bickford-Smith emailed Pupil A from his personal email address in relation to this. He made a judgment call that she was well and he did not speak with a member of staff trained to deal with child protection issues relating to Pupil A's wellbeing. Mr Bickford-Smith admits in the Statement of Agreed Facts that this was important safeguarding information that should have been referred to an appropriate member of staff.

Witness A confirmed in her oral evidence that she would have expected Mr Bickford-Smith to have notified another member of staff about the photo he had seen which alerted him to potential health issues. The presenting officer submitted that this went against the safeguarding training that he had received from Witness A in 2014. Slides from the training delivered by Witness A, included in the bundle, indicated that a staff member must "use the student's exact words – contemporaneous, verbatim record" and make time to talk to a "trusted colleague about how [he is] feeling about what has happened". The panel considered that Mr Bickford-Smith's conduct went against this.

The panel found this allegation proven.

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

Having found all of the allegations to have been proven, 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 the conduct of Mr Bickford-Smith in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Bickford-Smith is in breach of the following standards:

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

In his conduct towards Pupil A, Mr Bickford-Smith transgressed the appropriate boundaries of a normal teacher/pupil relationship especially given Pupil A's known vulnerability. In addition, in failing to refer Pupil A to a member of staff regarding safeguarding issues, Mr Bickford-Smith breached his greater responsibilities as a personal tutor, for which he had received additional safeguarding training. This is conduct that fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Bickford-Smith's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that the offence of sexual activity is relevant, albeit that Mr Bickford-Smith has not been convicted of any offence. The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel notes that a number of the allegations took place outside of the education setting, for example Mr Bickford-Smith meeting up with Pupil A outside of the school environment, communicating with Pupil A via social media and not through the College's email address and undertaking sexual activity in his car and home. This conduct affects the way Mr Bickford-Smith fulfils his teaching and personal tutor role. The panel considered that the serious breach of trust and duty of care towards a vulnerable pupil could additionally impact on other pupils and lead to them being exposed to or influenced by the behaviour in a harmful way.

Accordingly, the panel is satisfied that Mr Bickford-Smith is guilty of unacceptable professional conduct.

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.

The findings of misconduct are serious and the conduct displayed would likely have a negative impact on Mr Bickford-Smith's status as a teacher, potentially damaging the public perception.

Sharing naked images of male or female body parts with Pupil A and/or undertaking sexual activity with Pupil A whilst she was a pupil of the College, undoubtedly brought the profession into disrepute. The panel therefore finds that Mr Bickford-Smith'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 and 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 punitive effect.

The panel has considered the particular public interest considerations set out in the Advice and having done so has found a number of them to be relevant in this case, namely: the protection of pupils, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Bickford-Smith, there is a strong public interest consideration in respect of the protection of pupils given the finding of an inappropriate relationship with Pupil A.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Bickford-Smith 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 Bickford-Smith was outside that which could reasonably be tolerated.



Notwithstanding the 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 Bickford-Smith.

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 Bickford-Smith. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- 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;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;

Even though 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 render a prohibition order being an inappropriate and disproportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

The presenting officer confirmed to the panel that there are no previous disciplinary orders of the National College or other professional bodies relating to Mr Bickford-Smith. The panel has seen no evidence that indicates that Mr Bickford-Smith was previously subject to disciplinary proceedings or warnings at the College.

The panel noted that Mr Bickford-Smith submitted no evidence of mitigation or extenuating circumstances. There were also no character references provided.

Witness A's oral evidence was that even though Mr Bickford-Smith had previously been dealing with stressful family health issues whilst at the College, this situation had improved and she did not consider that this affected his professional judgment when interacting with Pupil A. The panel did not consider that Mr Bickford-Smith was acting under any duress, and found his actions to be deliberate.

There was very little evidence in the bundle of Mr Bickford-Smith's teaching history, however Pupil A's oral evidence was that he was always friendly and was funny and seemed to get on well with everyone. Witness A stated that Mr Bickford-Smith was an enthusiastic tutor, and had a natural affinity for working with young people of "that age

group". He understands some of the pressures on young people particularly upon transition.

The panel is of the view that prohibition is both appropriate and proportionate. The panel has decided that the public interest considerations outweigh the interests of Mr Bickford-Smith. Mr Bickford-Smith's abuse of position of trust and sexually motivated behaviour towards Pupil A, a vulnerable pupil, was a significant factor in forming that opinion. Accordingly, 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 them to decide to recommend that a review period of the order should be considered. The panel were mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. Pupil A was known to be vulnerable and the panel considered that Mr Bickford-Smith used his professional position as a personal tutor, to exploit Pupil A, and influenced her to engage in sexual activity. This was a serious breach of trust and all the more serious as it was clear to the panel that Mr Bickford-Smith's sexually motivated conduct had had a profound and negative impact on Pupil A's well-being.

As there was little information within the bundle that could suggest that Mr Bickford-Smith had developed any insight into his actions, the panel considered its findings indicated a situation in which a review period would not be appropriate. As such the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

## **Decision and reasons on behalf of the Secretary of State**

I have considered very carefully the findings and recommendations of the panel in this case. The panel has found all the allegations proven. Mr Bickford-Smith has been found guilty of unacceptable professional conduct, and conduct likely to bring the profession into disrepute.

The panel is satisfied that the conduct of Mr Bickford-Smith, in relation to the facts found proven, involved breaches of the Teachers' Standards, namely:

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

In his conduct towards Pupil A, Mr Bickford-Smith transgressed the appropriate boundaries of a normal teacher/pupil relationship especially given Pupil A's known vulnerability. In addition, the teacher breached his greater responsibilities as a personal tutor, for which he had received additional safeguarding training.

I have considered the public interest in this case. I agree with the panel that the public interest considerations are relevant in this case, namely: the protection of pupils; the maintenance of public confidence in the profession, and upholding proper standards of conduct.

I agree with the panel that there is a strong public interest consideration in respect of the protection of pupils, given the findings of an inappropriate relationship with Pupil A. I also agree with the panel that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Bickford-Smith were not treated with the utmost seriousness when regulating the conduct of the profession.

I note the panel went on to consider whether or not there were sufficient mitigating factors, taking into account the nature and severity of this case. I note that the panel did not consider Mr Bickford-Smith was acting under any duress, and found his actions to be deliberate.

The panel has decided that the public interest considerations outweigh the interest of Mr Bickford-Smith. I agree with that view. The panel has made a recommendation that a prohibition order should be imposed with immediate effect. I agree with the panel that prohibition is both proportionate and appropriate.

I now turn to the matter of a review period. I agree with the panel that this was a serious breach of trust and all the more serious as it was clear that Mr Bickford-Smith's sexually motivated conduct had had a profound and negative effect on Pupil A's well-being. I note that the panel found little information that Mr Bickford-Smith had developed any insight

into his actions. The panel decided that the prohibition order should be recommended without provision for a review period.

For the reasons set out above, I agree with the panel's recommendation, that a prohibition order should be imposed and that no review period should be allowed.

**This means that Mr Simon Bickford-Smith 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 Bickford-Smith 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 Bickford-Smith 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 be 'J. Millions', written on a light-colored background.

**Decision maker: Jayne Millions**

**Date: 9 June 2016**

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