



National College for
Teaching & Leadership

Mr Michael Nosiyama: Professional conduct panel outcome

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

August 2016

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

Teacher: Mr Michael Nosiamama

Teacher ref number: 0666032

Teacher date of birth: 21 June 1985

NCTL case reference: 14573

Date of determination: 16 August 2016

Former employer: Failsworth School

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 15 to 16 August 2016 at the Ramada Hotel and Suites Coventry Centre, The Butts, Earlsdon, Coventry CV1 3GG, to consider the case of Mr Michael Nosiamama.

The panel members were Mr Michael Lewis (former teacher panellist – in the chair), Mrs Alison Walsh (teacher panellist) and Mr Maurice McBride (lay panellist).

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

The presenting officer for the National College was Ms Kayleigh Brooks of Browne Jacobson LLP.

Mr Nosiamama was not present and was 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 01 June 2016.

It was alleged that Mr Nosiama was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute whilst employed at Failsworth School in that:

1. On or around 14 April 2015 he inappropriately dealt with Pupil A, in that he:
 - a. Was physically violent towards Pupil A;
 - b. Displayed aggressive behaviour towards Pupil A.

This allegation has not been admitted.

C. Preliminary applications

As Mr Nosiama was not in attendance at the hearing, the panel has considered whether this hearing should continue in the absence of Mr Nosiama.

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 Nosiama.

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 Mr Nosiama 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 panel noted that the Notice of Proceedings is dated 1 June 2016 which is more than 8 weeks prior to today's date, the start of the hearing. The address included in the Notice of Proceedings is the last known address for Mr Nosiama, which is confirmed by the trace report included in the bundle. The panel noted that there is proof of receipt included in the bundle as demonstrated by a signature above the printed name of Nosiama. The

presenting officer advised the panel that she could not confirm with certainty that the signature included on this receipt is Mr Nosiama's. The panel also noted that a copy of the Notice of Proceedings was emailed to Mr Nosiama's email address by the National College on 01 June 2016 and the presenting officer confirmed that there was no "bounce-back message" to this email. The panel therefore regard this as evidence that the Notice of Proceedings has been delivered to Mr Nosiama and therefore he is aware of these proceedings.

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

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. As Mr Nosiama has not engaged in these proceedings and has not completed the Notice of Proceedings form as requested, there is no indication that an adjournment might result in Mr Nosiama attending the hearing. The presenting officer notified the panel that there has been no indication from Mr Nosiama that he wished to be legally represented at the hearing.

The panel has had regard to the extent of the disadvantage to Mr Nosiama in not being able to give his account of events, having regard to the nature of the evidence against him. The panel will turn its own independent mind to the facts and evidence in this case and will be able to ascertain lines of defence on his behalf in probing both the oral and documentary evidence. The panel has noted that all witnesses relied upon by the National College 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 Nosiama, 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 Nosiama's account.

The panel also notes that there are two witnesses present at the hearing, a former pupil and former colleague of Mr Nosiama from the relevant school, who are prepared to give evidence, and it could be inconvenient for them to return again.

The panel has had regard to the seriousness of this case, and the potential consequences for Mr Nosiama and has accepted that fairness to all parties is of prime importance. However, as reflected in the judgement from the Court of Appeal case of *GMC v Adeogba & Visvardis* [2016], whilst it is of real significance if a case proceeds in a practitioner's absence that a panel would not have the practitioner's input, that difficulty cannot override all other considerations. The panel considers that Mr Nosiama has waived his right to appear. The panel will take the measures referred to above to address any potential unfairness insofar as is possible. This is a serious allegation and on balance, it is in the public interest for this hearing to proceed today.

Consideration of whether handwritten comments should be removed from the bundle

The panel was advised by the legal advisor, in private session, to consider whether it was proportionate, particularly in light of Mr Nosiama not being present at the hearing, to remove two pages of a transcript of Mr Nosiama's investigative interview conducted on behalf of the School which contained subjective handwritten comments, which could be interpreted as prejudicial. The panel asked the presenting officer, during the hearing, to confirm whether she was aware of who had made such comments to enable it to decide whether to remove these pages. The presenting officer submitted that it is unclear who has made these handwritten comments and she applied to the panel to admit redacted copies of the relevant pages of the interview. The panel were content to admit the redacted copies that removed the handwritten comments. These simply replaced pages 75 to 78 in the bundle.

Application for video evidence

The presenting officer made an application for 4 segments of CCTV footage which show the immediate events prior to the alleged incidents and also mobile phone footage of the alleged incident. The panel noted that there is reference in the index to the bundle to this video evidence. The legal advisor advised the panel that it is necessary to consider whether it is willing to consider and hear this information under a formal application, particularly as Mr Nosiama is not present and video evidence is not standard in these proceedings.

The presenting officer notified the panel that meeting notes included in the bundle refer to Mr Nosiama being shown videos provided by the school, ie CCTV images and a video taken on a pupil's mobile.

The panel were content to view the CCTV and mobile phone footage as it considered it was relevant and fair to do so in these proceedings. However, the panel was mindful that there may be subtleties of tone or body language that may be lost via the medium of video and if the panel considers that the video evidence is unclear or difficult to see, this will affect the relative weight that it places on such evidence.

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 – pages 4 to 18

Section 3: National College's witness statements – pages 19 to 23

Section 4: National College's documents – pages 24 to 81

Section 5: Teacher documents – 82

In addition, the panel agreed to accept replacement pages 75 to 78 as referred to above.

The panel members confirmed that it 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 B, former pupil of Failsworth School; and
2. Witness A, former teacher at Failsworth School.

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 Nosiama is a teacher of mathematics and obtained qualified teacher status on 1 August 2007. He was appointed as an associate senior leader of mathematics at Failsworth School ("the School") on 1 January 2015. On 14 April 2015 he taught a mathematics revision class at the School for Year 11 pupils which was attended by Pupil A. During the class, Pupil A was asked to leave by Mr Nosiama for being disruptive. When Pupil A repeatedly refused, the whole class was dismissed. Another member of staff witnessed Mr Nosiama walking out of the School building with the pupils in his revision class in a state of agitation. Upon exiting the building, Mr Nosiama and Pupil A were seen "squaring up" to each other and witnesses saw an altercation take place. Mr Nosiama was subsequently subject to a disciplinary investigation.

Findings of fact

The panel's findings of fact are as follows:

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

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute whilst employed at Failsworth School in that:

1. On or around 14 April 2015 you inappropriately dealt with Pupil A, in that you:

a. Were physically violent towards Pupil A;

The panel noted from Witness A's witness statement that around 12pm on 14 April 2015 during the Easter break some of the teachers were running revision sessions for Year 11 pupils. In his oral evidence, Witness A stated that he was letting his own revision class out of the School building and holding the door open for them, when Witness A then saw Mr Nosiama and approximately 20 pupils walking down the stairs from the upper walkway near the exit, which led into the main atrium of the School. The pupils appeared agitated and Witness A decided he should open the doors with his key card to enable the pupils to leave the building. It was within Witness A's oral evidence that described Mr Nosiama looking very determined as he walked towards the stairs.

Further in his oral evidence, Witness A stated that he let Mr Nosiama's pupils out of the doors at the back of the building and about 20-30 metres away from Witness A, he saw Mr Nosiama and Pupil A standing "provocatively" close to each other, "squaring" up to each other.

Witness A did not hear anything said between Pupil A and Mr Nosiama. However, his oral evidence was that he saw Pupil A flick his head towards Mr Nosiama as if he were trying to "head butt" Mr Nosiama. Mr Nosiama moved backwards with his two hands up in a defensive manner as a reflex to being potentially hit. Witness A did not see any connection between them but heard the sound of a connection "skin on skin". Witness A believed that as Mr Nosiama moved backwards the back of Mr Nosiama's hand connected with Pupil A's face. Witness A clearly stated to the panel that he did not see Mr Nosiama hit Pupil A or Pupil A hit Mr Nosiama.

Following this, Witness A's oral evidence was that he ran over to Mr Nosiama and Pupil A and he heard only Pupil A swearing, saying "fucking" to Mr Nosiama. Witness A decided to split the two up and went to remove Mr Nosiama from the situation and brought Mr Nosiama back to the School building. Witness A noticed that Pupil A looked angry. Mr Nosiama was shaken by this incident. Then Mr Nosiama asked to borrow Witness A's phone so that he could call the police. Witness A stated to the panel that he gave his phone to Mr Nosiama. Witness A then walked into the School mentioned the matter to the deputy headteacher and then reported the incident to the headteacher.

When questioned by the panel about Pupil A, Witness A stated that Pupil A was a "cheeky chappie" and he could be quite aggressive to teachers. He was known in the School for being very vocal and had a tendency to test the limits of what he could get away with in a classroom. However, he would work hard for teachers that he got to know well.

In his oral evidence, Pupil B stated that Pupil C filmed the incident that took place outside the School building. Pupil B stated that five individuals including Mr Nosiama, Pupil A and Pupil B exited the building at the time. Pupil B's oral evidence was that both Pupil A and Mr Nosiama swore at each other. Mr Nosiama said Pupil A was "nothing to him", and "to take it outside". Pupil A said that Mr Nosiama was a "knob head" and that he was a "fucking idiot". In his written statement, Pupil B stated that he realised that this was not a joke when Mr Nosiama told Pupil A "I'll fuck you up".

Pupil B's further oral evidence was that Pupil A and Mr Nosiama were squaring up to each other. Pupil B was behind Pupil A when the incident took place. He heard Mr Nosiama say "touch me again and I will fuck you up". Pupil A then poked Mr Nosiama with his finger, and Pupil A was in Mr Nosiama's face. Mr Nosiama then said "touch me again". Pupil A was swearing saying "you won't do nothing to me". He said to Mr Nosiama he was a "fucking idiot" and "a knobhead".

Pupil B further stated in oral evidence that he was still standing behind Pupil A when Mr Nosiama raised his arm up and then struck Pupil A with the palm of his right hand hard across the left side of Pupil A's face. Pupil B stated to the panel that he was shocked by this and the impact was sufficiently forceful to leave the imprint of Mr Nosiama's hand as a red mark on Pupil A's face.

The presenting officer drew the panel's attention to handwritten pupil Accounts which corroborate this version of events.

Pupil B's oral evidence was that Pupil A subsequently hit Mr Nosiama; Mr Nosiama then said "Thank you, expulsion". Pupil B's oral evidence was that he believed Mr Nosiama meant that the School would now "get rid" of Pupil A.

The panel viewed the CCTV and mobile phone footage that it agreed to admit as evidence. The first four segments represented the footage taken by four different static CCTV cameras in sequence; there is no time lapse between each camera as it represents an "in time" recording of the relevant individuals moving through the School's premises. There was no audio available from the CCTV evidence.

The panel viewed the mobile phone footage that it broke down, frame by frame. The panel saw Mr Nosiama and Pupil A standing very close to each other with their feet less than a foot apart. The footage then displays Mr Nosiama raising his right arm; his right palm was in the vicinity of Pupil A's left side of his head. The panel could not see on the video what happened immediately next as the view was obscured by another pupil, however it heard a very specific slapping sound, which was followed by Pupil A's head and body moving away. This showed a reeling movement which appeared to be a consequence of a blow from Mr Nosiama's raised right arm. As a result the panel regard this short sequence as the critical incident and is satisfied that Mr Nosiama made violent physical contact with Pupil A at this point.

During her closing remarks, the presenting officer referred the panel to the written statement prepared by Mr Nosiama which he provided to the School on the date of the alleged incident. Mr Nosiama described the incident as *“He then reached towards me with his left arm and in swung my hand in a defensive motion and it connected with his face; whilst he made contact with my arm (I only use as much force as required to defend myself)”*.

Subsequently, in the investigative interview on behalf of the School on 5 May 2015, Mr Nosiama is recorded as stating that he “did hit him when I went to block his arm but not enough force to hurt him”. In addition, the notes of his further investigative interview on behalf of the School on 20 May 2015 reflect Mr Nosiama stating that he “defended” himself and “struck” Pupil A in the process. The panel noted that the record of both interviews on 5 and 20 May 2015 is not signed by Nosiama.

The presenting officer submitted that Mr Nosiama acknowledges that he hit Pupil A’s face and this amounts to an admission by Mr Nosiama.

The panel considered but rejected Mr Nosiama’s account that his actions were in self-defence as this is contrary to the oral evidence heard and the mobile phone footage viewed by the panel.

The panel considered that taking all of the above into account, there was significant evidence that Mr Nosiama was physically violent towards Pupil A and therefore allegation 1a. is found proven.

b. Displayed aggressive behaviour towards Pupil A.

Upon reviewing the mobile phone footage, the panel considered that Mr Nosiama’s tone of language and body language was a deliberate attempt to goad Pupil A into exercising physical force against Mr Nosiama. The transcript of the mobile phone footage included in the bundle displayed Mr Nosiama telling Pupil A to touch him again at least 4 times. The panel certainly witnessed Pupil A and Mr Nosiama “squaring up” to each other. The panel could see from Mr Nosiama’s face on the video footage that he was very angry and this was represented in the tone and volume of his voice.

The panel noted several handwritten accounts obtained from pupils who witnessed the incident. Pupil C’s written statement and Pupil F’s witness statement state that Mr Nosiama slapped Pupil A and Pupil A hit Mr Nosiama back. Pupil G’s written statement was that Pupil A had a “red mark” on his face. The panel noted there were some inconsistent accounts of this incident particularly given by Pupil A and Pupil H. However, the presenting officer submitted that this discrepancy is understandable given that this incident took place over a matter of seconds. The panel noted that whilst there are some inconsistencies in detail between the various pupil Accounts there is consensus that there was aggression in Mr Nosiama’s language and demeanour.

The panel found Pupil B's oral evidence to be credible in that he heard Mr Nosiama swear at Pupil A and said words to the effect of he would "fuck" Pupil A "up". Pupil B also said he heard Mr Nosiama appearing to challenge Pupil A to a fight; his written statement indicates that Mr Nosiama said "come on then". Pupil B told the panel and the mobile phone footage recorded Mr Nosiama stating "Thank you, guess what? expulsion" [sic]. The panel considered that each of these instances was aggressive.

Pupil B and Witness A's oral evidence was corroborated by the mobile phone footage viewed by the panel. The panel observed Mr Nosiama pointing to his chin whilst stating "touch me again". This appeared to the panel as if Mr Nosiama was goading Pupil A.

The panel also noted from Pupil A's written account included in the bundle that Mr Nosiama said that Pupil A would be "scrubbing" Mr Nosiama's "toilets for a living" which he said in front of the class during the revision lesson. Mr Nosiama's written account of this incident confirms that this verbal exchange took place. The panel considered this as further evidence of Mr Nosiama acting in an aggressive manner towards pupil A.

Therefore the panel found allegation 1b proven.

Whilst the panel acknowledged that managing the behaviour of teenagers can sometimes be challenging, there was demonstrable evidence from the mobile phone footage of Mr Nosiama goading Pupil A and provoking Pupil A into displaying aggressive behaviour. The panel believes Mr Nosiama acted inappropriately as he aggravated the situation rather than sought to defuse it. The panel noted that Mr Nosiama seeks to explain his behaviour as self-defence. However the panel considered that the video evidence displayed Mr Nosiama acting in an aggressive and violent manner in a situation where he did not appear to be in any immediate danger.

The stem of the allegation and therefore its entirety is found proven.

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

Having found the allegation to have been proven, the panel has gone on to consider whether the facts of the proven allegation amounts 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 Nosiama in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Nosiama 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;

The panel is satisfied that the conduct of Mr Nosiama fell significantly short of the standards expected of the profession. After watching the mobile phone footage, the panel was extremely concerned by Mr Nosiama's behaviour. Deliberately using inflammatory and foul language and repeatedly goading Pupil A into hitting him is not consistent with building relationships rooted in mutual respect and is not an example of observing the appropriate boundaries of a teacher's professional position.

The panel has also considered whether Mr Nosiama'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 violence is relevant. 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 presenting officer submitted that Mr Nosiama's struck Pupil A forcefully. Mr Nosiama admitted during the course of the disciplinary investigation conducted on behalf of the School that he hit Pupil A.

The presenting officer also submitted that Mr Nosiama did not consider defusing the situation by requesting Pupil A leave the premises and instead chose to speak aggressively and inappropriately to Pupil A. The presenting officer submitted that this is not consistent with a suggestion that Mr Nosiama was acting in self-defence. The panel agreed with the presenting officer's submissions. Accordingly, the panel is satisfied that Mr Nosiama 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 panel has found that Mr Nosiama dealt with Pupil A inappropriately by displaying aggressive behaviour towards him and being physically violent towards him. This is not the appropriate behaviour for a teacher. Accordingly, the panel therefore finds that Mr Nosiama'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.

The panel has found that Mr Nosiama acted in a physically violent manner towards Pupil A. In addition, the panel found that Mr Nosiama displayed aggressive behaviour. As a result, there is a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if Mr Nosiama's conduct was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel considers that a strong public interest consideration in declaring proper standards of conduct in the profession is present in this case. The panel found that Mr Nosiama's conduct was outside that which could reasonably be tolerated.

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

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 Nosiama. 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;

The presenting officer submitted that Mr Nosiama was responsible for a serious incident. He “offered Pupil A for a fight”, goaded Pupil A and this culminated in physical contact with Pupil A. This incident was witnessed by several pupils on the School’s premises and this emphasises the seriousness of the matter.

These are behaviours that would point to a prohibition order being appropriate. Nonetheless, 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.

There was no evidence that Mr Nosiama’s actions were anything other than deliberate. The panel considered that Mr Nosiama deliberately invited Pupil A outside for the altercation. Once outside the School building, Mr Nosiama could have walked away from Pupil A; he did not need to engage with Pupil A in a verbal or physically aggressive manner. The panel considered that Mr Nosiama deliberately provoked the incident for the purpose of Pupil A being potentially excluded.

The panel also considered that there was no evidence to suggest that Mr Nosiama was acting under duress. The panel rejected Mr Nosiama’s explanation that he was acting in self-defence as the panel did not consider, from the mobile phone footage viewed, that Mr Nosiama was in any immediate danger.

The panel has neither seen nor heard any evidence that Mr Nosiama was previously subject to disciplinary proceedings or warnings or was anything other than of previous good character. The presenting officer confirmed to the panel there are no previous disciplinary orders relating to Mr Nosiama.

The panel noted from a job application included in the bundle that Mr Nosiama regards himself as a conscientious teacher who is truly passionate about his role as an educator. He stated that his previous teaching practise has been consistently judged to be “outstanding” which is evident not only by lesson observations but also via a record of outstanding results across all key stages. He considered that his success as a classroom teacher is built upon a philosophy of providing pupils with every opportunity to succeed. In his application form, Mr Nosiama stated that he believed that teaching and learning must be tailored to meet every pupil’s need in order to be effective. He stated that the performance of pupils in his classes has been exemplary and that more than 95% of GCSE students taught by him have achieved one or more levels of progress to achieve their target levels. In addition he stated that Ofsted described the changes he had made to mathematics provision were “outstanding”, “revolutionary”, “beyond outstanding” and the “the benchmark for not just mathematics, but all subjects”.

The panel noted that there were no teacher documents included in the bundle and therefore Mr Nosiama had not submitted any independent evidence of his teaching capability or general character. The panel were therefore unable to test whether Mr Nosiama's own opinion of his teaching capability and professional performance was justified.

Taking all of the above into account the panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Nosiama. 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 it to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes violence. The panel has found that Mr Nosiama has been responsible for acting in a physically violent and aggressive manner towards Pupil A.

The panel noted the record of investigative interviews included in the bundle. Mr Nosiama states that if he had known the impact of his action, namely that he would be suspended and that his classes would be "suffering", he would have dealt with it differently. However, he stated he had "no regret". The presenting officer submitted that Mr Nosiama's regret was only to his own self-interest and was not out of concern for Pupil A's welfare. The presenting officer reiterated that any suggestion that it was necessary to act in self-defence could not be justified by the evidence. The panel concurred with this. The panel noted that the investigative interviews took place approximately one month after the incident. The presenting officer commented that in this short period of time Mr Nosiama had not gained any insight into the inappropriateness of his behaviour. The panel concurred.

There was no evidence in the bundle or from the oral evidence heard, that could demonstrate that Mr Nosiama has developed any insight into his behaviour at all. This was of concern to the panel. There was no information to suggest that Mr Nosiama would not repeat similar behaviour in the future. The presenting officer submitted that Mr Nosiama is a continuing risk to pupils and the panel agreed. Pupils have a right to not be verbally or physically abused by a teacher. The panel considered this was a serious breach of the position of trust Mr Nosiama had as a teacher.

In the absence of any mitigating factors, the panel find a review period is not appropriate. The panel therefore decided that it is proportionate in this case for a 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, both in terms of sanction and review. The panel has found the allegations proven, and Mr Nosiama has been found guilty of unprofessional conduct and conduct which may bring the profession into disrepute.

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.

The panel has found that Mr Nosiama acted in a physically violent manner towards a pupil and displayed aggressive behaviour. As a result, there is a strong public interest consideration in respect of the protection of pupils.

I agree with the panel that public confidence in the profession could be seriously weakened if Mr Nosiama's conduct was not treated with the utmost seriousness when regulating the conduct of the profession.

I agree with the panel, that the behaviours 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.

I have considered the public interest in this case. The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Nosiama.

I agree with that view and that prohibition is both proportionate and appropriate.

I now turn my mind to the consideration of a review period. The Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours includes violence. Mr Nosiama has been found responsible for acting in a physically violent and aggressive manner towards a pupil.

I note the panel found no evidence that could demonstrate that Mr Nosiama has developed any insight into his behaviour at all, and that this was of concern to the panel. There was no information to suggest that Mr Nosiama would not repeat similar behaviour in the future, and this is of concern. I agree with the panel that pupils have a right to not be verbally or physically abused by a teacher.

Due to the serious and violent nature of this case and 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 Michael Nosiama 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 Nosiama 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 Nosiama has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'J. Millions', with a small dot at the end of the signature.

Decision maker: Jayne Millions

Date: 18 August 2016

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