



National College for
Teaching & Leadership

Mr Christopher James Tinsley: Professional conduct panel outcome

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

March 2017

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

Teacher: Mr Christopher James Tinsley
Teacher ref number: 0614844
Teacher date of birth: 12 April 1984
NCTL case reference: 14784
Date of determination: 7 March 2017
Former employer: Brockhill Park Performing Arts College

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 6 and 7 March 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Christopher Tinsley.

The panel members were Mr Luke Graham (teacher panellist – in the chair), Mr Steve Oliver (teacher panellist) and Mrs Ann Walker (lay panellist).

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

The presenting officer for the National College was Mr Peter Lownds of 2 Hare Court Chambers.

Mr Tinsley was present and was represented by Mr Philip Dayle of No5 Chambers.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 9 December 2016.

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

He failed to maintain appropriate professional boundaries and/or maintain appropriate professional standards in that:

1. In relation to Pupil A (a former pupil) who was around the age of 18 years old, he made inappropriate contact with her via social media, specifically he:
 - a. sent messages to her on Instagram which included the following:
 - i. “For me there is nothing sexier then (sic) a Charlton shirt. You wanna see me smile...Send me a picture of you in your Charlton shirt and long socks!!!! Nothing sexier!!! X x x x”
 - ii. “Have you ever fancied me? Even a little? X x x”
 - iii. “Is it really that hard to admit you have a soft spot for me?!! I clearly have one for you. X x”
 - iv. “Not even a little one? X x”
 - v. “Because you are a gorgeous young woman...I mean that...And I always felt that you and if (sic) had some sort of connection...And I guess it was just nice to feel wanted...Even though it shouldn't. x x”
 - b. Sent pictures of himself semi-naked wearing only a towel around his waist;
2. When Pupil A was a pupil in around Years 9 and 10 at the School, he called her ‘beautiful’ on one or more occasions
3. When Pupil A was a pupil in around Year 9 at the School, he patted her bottom with a clipboard
4. His conduct set out at 1 and/or 2 and/or 3 above was sexually motivated.

Mr Tinsley admits the factual particulars of allegations 1(a) and 1(b). He does not admit the other allegations set out above or that his conduct amounts to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

Application to amend the allegations

Under paragraph 4.56 of the Teacher Misconduct – Disciplinary Procedures for the Teaching Profession (“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.

An application has been made by the presenting officer to amend the Notice of Proceedings by withdrawing allegations 2 and 3. The presenting officer submitted that when these particular allegations were drafted it was anticipated that further evidence would be forthcoming from Pupil A and that has not been obtained. As a result, any findings relating to these allegations could only be based on hearsay evidence and therefore the National College applied to withdraw both of these allegations and make a consequential amendment to allegation 4. If amended, allegation 4 should read: Your conduct set out at 1 was sexually motivated.

The panel noted that the teacher’s representative has consented to the application.

The panel took into account the legal advisor’s advice that 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 question that the panel should ask itself is whether Mr Tinsley’s case would have been presented differently if the amendment had been made at an earlier stage.

The panel took note that based on his submissions the presenting officer intends to present no submissions or evidence to substantiate allegations 2 and 3. As the factual circumstances relating to allegations 2 and 3, namely that Pupil A was a pupil of the relevant school at the time (instead of a former pupil), the panel considered that the amendment requested may change the scope of the allegations as a whole. However, the panel considered that amending the allegations would not change the nature or the seriousness of the allegations, as it is proposed that allegation 1 may, if proven, provide evidence of sexual motivation referenced in allegation 4. Taking the submissions into account, the panel considered that the proposed amendments were not prejudicial to Mr Tinsley and would not cause him to present his defence in a substantially different way and therefore on balance, the panel considered it was in the interests of justice and the interest of Mr Tinsley for this application to be accepted. The panel therefore agreed that allegations 2 and 3 may be withdrawn and allegation 4 should be amended to state: Your conduct set out at 1 was sexually motivated.

Application to amend documents

The teacher's representative also made an application to amend certain pages of the bundle that refer to previous HR correspondence relating to Mr Tinsley. The teacher's representative invited the panel to, "put aside" paragraphs in three pages which refer to such HR correspondence and to effectively mark them out in square brackets, so that the panel do not place any weight on such matters, during the early stages of the proceedings.

The presenting officer agreed that in relation to stage 1, the proving of the allegations, that the matters identified by Mr Tinsley's representative are not relevant to this stage. The presenting officer suggests that the panel bracket off the sections that the teacher's representative has outlined.

The legal advisor advised the panel that the document Teacher misconduct: The prohibition of teachers, which the panel refers to as "the Advice" indicates that if this matter proceeds from stage 1 (findings of fact) and stage 2 (findings relating to unacceptable professional conduct and/or conduct which may bring the profession into disrepute), at stage 3 (whether a prohibition order may be appropriate) mitigation should be considered. The mitigation section of the Advice invites the panel at stage 3 to consider whether a teacher has a previous good history. The legal advisor therefore advised the panel that it should be mindful that it may determine that it is appropriate and relevant to consider the sections of the documents that the teacher's representative has invited the panel to mark out in square brackets, at stage 3 of the proceedings.

Taking all of the submissions into account, the panel determined that it was not appropriate to accept the teacher's representative's application. The panel are content that it is not appropriate to consider such HR correspondence at either stage 1 or stage 2 of these proceedings but it wishes to reserve the right to draw out evidence relating to mitigation, including previous good history, in its questioning of the witnesses. This is an experienced panel and marking out sections in square brackets appeared, to the panel, to be unnecessarily artificial. The panel was mindful that the application made only related to some of the references to the content of the HR correspondence which is distributed throughout the bundle. Therefore placing a sub-set of these references in square brackets makes the exercise redundant.

The panel was however content to put such evidence relating to previous history out of its mind unless and until the proceedings progress on to Stage 3. The teacher's representative's application was therefore rejected.

Waiver relating to paragraph 4.1 of the Procedures

The legal adviser advised the parties that during the lunch break on the first day of this hearing it became apparent that the lay panellist on this panel has previously taught in a school more than 30 years ago. Paragraph 4.1 of the Procedures states that the panel

will include at least one panel member who will be a teacher or someone who has been a teacher in the five years immediately prior to the date they were appointed as suitable to be a member of a professional conduct panel. The two teacher panellists on this panel satisfy this definition. Paragraph 4.1 of the Procedures also states that the panel will include at least one member, “who will have never worked as a teacher; referred to as a ‘lay panellist’”. Unfortunately, the lay panel member on this panel does not satisfy this definition as set out in the Procedures.

The legal advisor also drew the panel’s attention to Regulation 6(2) of the Teachers’ Disciplinary (England) Regulations 2012 (“the Regulations”) which states: “A professional conduct panel must include at least three persons, comprising-

- (a) one or more teachers or persons who have been teachers in the past five years;
and
- (b) one or more other persons.”

The legal advisor advised that the two teacher panellists on this panel satisfy Regulation 6(a) as both members have been teachers in the past five years. The legal advisor also advised that the lay panellist on this panel would satisfy Regulation 6(b) and therefore the panel are entitled to consider that this panel is correctly constituted in accordance with the Regulations.

However, the legal advisor asked the panel to consider paragraph 1.4 of the Procedures which states that any procedures or requirements set out in these Procedures, except for matters subject to the Regulations, may be waived or varied where there is agreement between the teacher or the teacher’s representative and the presenting officer, provided that such waiver or variation is not contrary to the interests of justice.

The presenting officer submitted that even though it is possible for the content of Regulation 6(2) to override paragraph 4.1 of the Procedures, he considers it appropriate for a waiver of paragraph 4.1 of the Procedures to be given in this case, in any event, so that it is a matter of record that there has been a waiver of the paragraph relating to constitution of the panel. Mr Tinsley’s representative submitted that it is appropriate that there is a waiver in this case relating to paragraph 4.1.

Taking the submissions into account, the panel determined it was correctly constituted in accordance with Regulation 6(2) of the Regulations. However, in the interests of transparency, the panel was content to grant a waiver, such that it is clear that the panel has been constituted in waiver of paragraph 4.1 of the Procedures as the lay member does not satisfy the definition of, “lay panellist”. Given that the case has already commenced and the National College has completed its evidence, the panel considered it was not contrary to the interests of justice to grant such a waiver.

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 15

Section 3: National College's witness statements – pages 16 to 21

Section 4: National College's documents – pages 22 to 67

Section 5: Teacher documents – pages 68 to 86

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

Witnesses

The presenting officer called the senior vice principal at Brockhill Park Performing Arts College to give oral evidence on behalf of the National College.

Mr Tinsley also gave oral evidence.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Mr Tinsley commenced working as a physical education ("P.E.") teacher at Brockhill Park Performing Arts College ("the School") on 1 August 2007. He received an interim promotion and was subsequently promoted to head of P.E. on 1 June 2013. In 2014 Mr Tinsley was given a written warning relating to the manner in which he spoke to a member of staff supporting a vulnerable student. In October 2015 an allegation was raised that Mr Tinsley had sent messages and images via social media to a former pupil of the School. On 2 November 2015, Mr Tinsley was suspended from the School. A disciplinary investigation was undertaken and Mr Tinsley was interviewed by the School on 9 November 2015. Mr Tinsley resigned from his post as head of P.E. and teacher on 12 November 2015.

Findings of fact

The panel's findings of fact is as follows:

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

You failed to maintain appropriate professional boundaries and/or maintain appropriate professional standards in that:

- 1. In relation to Pupil A (a former pupil) who was around the age of 18 years old, you made inappropriate contact with her via social media, specifically you:**
 - a) Sent messages to her on Instagram which included the following:**
 - i. “For me there is nothing sexier then (sic) a Charlton shirt. You wanna see me smile...Send me a picture of you in your Charlton shirt and long socks!!!! Nothing sexier!!! X x x x”**
 - ii. “Have you ever fancied me? Even a little? X x x”**
 - iii. “Is it really that hard to admit you have a soft spot for me?! I clearly have one for you. X x”**
 - iv. “Not even a little one? X x”**
 - v. “Because you are a gorgeous young woman...I mean that...And I always felt that you and if (sic) had some sort of connection...And I guess it was just nice to feel wanted...Even though it shouldn't. x x”**
 - b) Sent pictures of yourself semi-naked wearing only a towel around your waist;**

In the course of the hearing, Mr Tinsley's representative submitted that this allegation is admitted in its entirety. The presenting officer submitted that there is no dispute that Mr Tinsley sent all the Instagram messages referred to in allegations 1(a)(i) to 1(a)(v) and the pictures referred to in allegation 1(b).

Witness A stated in oral evidence that when he questioned Pupil A about the messages that Mr Tinsley had sent to her, in their meeting of 6 November 2015, she stated that they were sent in the School year 2015/2016 and no further detail was provided. Witness A's further oral evidence was that Pupil A stated to him that she had received further messages from Mr Tinsley which she had deleted but these messages were not inappropriate. In his oral evidence, Mr Tinsley stated that if the missing messages between him and Pupil A were available they would better explain the context in which these messages were sent.

Sub-particulars 1(a)(i) to 1(a)(v)

The panel had regard to the messages included in the bundle and the panel found evidence of each of the messages referred to in sub-particulars 1(a)(i) to 1(a)(v). In light of this, and Mr Tinsley's admission, the panel was therefore content that sub-particulars 1(a)(i) to 1(a)(v) are proven.

Sub-particulars 1(b)

In addition, the panel had regard to the copy photographs included in the bundle which are pictures of Mr Tinsley in which he was topless and therefore semi-naked, whilst he was wearing only a towel around his waist. The panel also considered that one of the pictures shows Mr Tinsley with a towel below his waist. In light of the admission made by Mr Tinsley and the photographic evidence in the bundle, the panel found the sub-particulars of allegation 1(b) proven.

Stem of allegation 1

The presenting officer submitted in the course of the hearing that Pupil A was aged under 18 at the time the relevant messages were sent on or around October 2015, some months after Pupil A had left the School. When questioned by the panel, Mr Tinsley's oral evidence was that these messages were sent quite late one evening to Pupil A. He cannot recall if all messages were sent during one evening or over the course of two days.

The panel noted that in a note of the meeting on 21 October 2015, between Witness A and the School's head of safeguarding, it is stated that Pupil A is a former student. When questioned by the panel, Witness A stated that from his recollection he believed Pupil A was under the age of 18 when she received the messages referred to above at allegations 1(a)(i) to 1(a)(v), however she had turned 18 when he met with her on 6 November 2015. The presenting officer drew the panel's attention to the summary record of Witness A's interview with Pupil A in the bundle, which suggests that Pupil A's birthday may have been 15 October.

Witness A's further oral evidence was that Pupil A was not on the school roll, and therefore was a former pupil, at the time he met with Pupil A on 6 November 2015 to discuss the messages she had received.

The panel considered that the evidence indicated that Pupil A was a former pupil of the School at the time the messages referred to in allegation 1(a)(i) to 1(a)(v) were sent. Whilst there was some uncertainty over the date of the Instagram messages, the panel found that Pupil A was around the age of 18 years old at the time. The panel considered the content of such messages was evidence of inappropriate contact with Pupil A via social media. The stem of allegation 1 is therefore found proven.

4. Your conduct set out at 1 was sexually motivated.

The legal advisor advised the panel to ask itself firstly whether, on the balance of probabilities, a reasonable person would think the words/actions found proven could be

sexual (the objective test). If so, the panel should go on to ask itself secondly whether, in all the circumstances of the conduct in the case, on the balance of probabilities, Mr Tinsley's purpose of such words/actions was sexual (the subjective test).

The presenting officer submitted that the content of the messages sent by Mr Tinsley were overtly sexually motivated. In particular, the message referred to in allegation 1(a)(i). The presenting officer submitted that Mr Tinsley considered that a picture of a girl in a Charlton shirt and long socks was sexy and he was directly inviting Pupil A to send him a picture of her dressed in this manner. The presenting officer submitted that if there was any doubt about the intention behind Mr Tinsley's messages, this was dissipated by Mr Tinsley asking Pupil A in a further message, set out at allegation 1(a)(ii), "Have you ever fancied me?..." The presenting officer outlined the pattern of conversations included in the Instagram messages which he submitted was instigated by Mr Tinsley and evolved to be sexual in nature.

In addition, the presenting officer submitted that further messages in which Mr Tinsley asked Pupil A if she had a, "soft spot for" him as he, "clearly" had one for her and "Because [she was] a gorgeous young woman...and [he] always felt that [he]...had some sort of connection..." were sexual in nature and therefore sexually motivated.

In his oral evidence, Mr Tinsley said that looking back at the messages included in the bundle, he finds it difficult to understand why he sent these. Mr Tinsley's oral evidence was that when he first met Pupil A she was on the School's roll but she was not a pupil that was in school regularly. Therefore, he did not realise that she had left the School as recently as she had done at the time of these messages.

Further, in his oral evidence, Mr Tinsley stated that initially he and Pupil A began to discuss Charlton Football Club and their conversation moved on to tattoos. Pupil A was interested in getting one and Mr Tinsley has a number himself. At some point in the conversation, he had, "gone off in a direction", which paints a negative picture. Mr Tinsley's oral evidence was that Pupil A did not directly ask him to send her a picture of his tattoos but she did express an interest in them. The presenting officer submitted that the pictures Mr Tinsley sent to Pupil A were in a similar vein to, "sexy" photographs that would appear in Men's Health publications.

In sending messages to Pupil A, Mr Tinsley's oral evidence was that he believed that he was trying to seek an affirmation that he was a good person. He was not intending to create an impression that he wished to develop a relationship with Pupil A. He considers that without the other messages between him and Pupil A to set out the full context of their conversation, it is difficult to explain the tone in which such messages were sent. Mr Tinsley's evidence was that he only meant to have a flirtatious conversation that was not sexually motivated. When questioned by the panel, Mr Tinsley was asked why he did not seek any affirmation from Pupil A relating to his teaching capability as a P.E. teacher. Mr Tinsley's oral evidence in response was that he was not unconfident in his teaching abilities, he was seeking an affirmation in terms of his personal self-worth.

When questioned by his representative, Mr Tinsley stated that he considers that his messages to Pupil A included in the bundle were a clear over-stepping of boundaries and this was a dangerous conversation to have had and one that was, “instantly regrettable”. He believes that he was looking to have his, “ego” stroked or boosted and there was never an intention for the relationship to go any further. He maintained that he did not obtain any sexual gratification from sending these messages as he had no sexual intention in mind. He had no intention to take anything further, he simply wanted an affirmation that he was not a completely unlikeable person.

Further in his oral evidence, Mr Tinsley stated that he understands that an objective person would consider the messages included in the bundle to be sexually motivated. He believes that saying that there “is nothing sexier then (sic) a Charlton shirt” was a poor choice of words, yet, in his view, did not demonstrate a sexual motivation. He further stated in oral evidence, even though he said in the same message “Send me a picture of you in your Charlton shirt and long socks...” this was not a demand he made of Pupil A. However, he wanted Pupil A to be aware that he was not making a demand of her and so he sent a further message to Pupil A stating this. Mr Tinsley’s oral evidence was that this supports his contention that the messages were not sexually motivated as he wanted to ensure that Pupil A did not misinterpret an ambiguous message.

When he further stated in a message to Pupil A that their conversations made him “feel wanted...Even though it shouldn’t...” Mr Tinsley’s oral evidence was that he was not seeking confirmation from Pupil A that she found him sexually attractive. He was simply stating that the messages made him feel better about himself and he later recognised that he should not be seeking such affirmations from Pupil A.

When further cross examined by the presenting officer, Mr Tinsley stated that the photographs he took of himself wearing a towel were part of his tracking of his own fitness journey on his second Instagram account and were not taken solely for the purpose of sending them to Pupil A. The panel noted from his written representations that Mr Tinsley indicates that the pictures that he sent to Pupil A were one of many pictures of a similar nature that he maintains on his separate Instagram page focussing on fitness. His written representations further states this fitness page is maintained to comment on and show progress of his developing fitness. He further stated in oral evidence that he only sent these photographs to Pupil A after selecting them from his Instagram account to display the tattoos he had. He did not take these photographs and immediately send them to Pupil A. He believes that at the time he tried to crop the photos before sending them to Pupil A, however he was unable to do so. He maintained that he did not have any sexualised motivation behind these messages. When further cross examined, Mr Tinsley’s oral evidence was that he did not think to provide proof of the existence of the pictures relating to his fitness journey on his Instagram account to the panel.

When further cross examined by the presenting officer, Mr Tinsley’s oral evidence was that he could understand that Pupil A may have felt uncomfortable by the messages he

had sent or asserted that she may have been flattered by these messages. He is unable to state with certainty how Pupil A perceived these messages or his intentions in sending them. However, his oral evidence was that he and Pupil A exchanged further messages thereafter. The panel noted that there is some uncertainty about the exact order of the messages and pictures exchanged, but Mr Tinsley's recollection is that the photographs of him came in the middle of the Instagram exchanges.

Mr Tinsley's further oral evidence was that he would have deleted the messages that he had with Pupil A a few days after their conversation on Instagram. He maintained that he routinely deletes messages and does not keep them. If he had intended to take the relationship further then he may have kept the messages, sent more messages or taken more raunchy pictures.

Mr Tinsley's representative submitted that sexual motivation is not an inescapable inference from Mr Tinsley's messages and conduct towards Pupil A. It is clear that Mr Tinsley's actions did not lead to sex. In terms of the exchanges, there was no significant escalation in terms of the exchanges. It was further submitted that there is a dispute around the context of the messages, as there are missing messages that fills out a much fuller conversation about tattoos. Mr Tinsley's representative submitted that the full exchange is not available.

The presenting officer submitted that the panel should not consider the mitigation evidence that Mr Tinsley has put forward as part of his case at this stage. Mr Tinsley's representative disagreed and submitted that the difficult personal circumstances that Mr Tinsley was undergoing at the time led Mr Tinsley to communicate with Pupil A in a way to seek an affirmation as to his personal self-worth. This should be taken into account by the panel. Mr Tinsley's representative further submitted that the conversations with Pupil A did not go any further and Mr Tinsley did not obtain any sexual gratification from these messages/conversations as they were not sexually motivated.

Taking all the evidence into account, the panel found the objective test met on the balance of probabilities as the ordinary reasonable person would consider the purpose of the pictures and messages that Mr Tinsley sent to Pupil A was sexual. The panel carefully considered the subjective test. Mr Tinsley explained the reason behind his separate Instagram page for his fitness photographs. He proposed that this was to keep the photographs separate from his public profile. The panel concluded that Mr Tinsley had an understanding of the potentially sensitive nature of these photographs. On the whole, the panel found Mr Tinsley to be a credible witness. However in considering all the evidence, the panel found Mr Tinsley's explanation as to the selection and sending of the specific photographs included in the bundle to Pupil A for the purpose of displaying his tattoos alone, was not convincing.

The panel concluded that, on the balance of probabilities that it was more likely than not that Mr Tinsley's purpose of the messages or photographs he sent to Pupil A was sexual. The panel noted that no sexual relationship developed however, the panel considered that Mr Tinsley had the opportunity to cease communicating with Pupil A after she

confirmed that she did not find Mr Tinsley attractive. The fact that Mr Tinsley went on to ask Pupil A if she had a “soft spot” for him and that she was “gorgeous” and that it was nice to “feel wanted” further reinforced that Mr Tinsley’s conduct towards Pupil A was sexually motivated.

The panel therefore found this allegation proven on the balance of probabilities.

Stem of allegation 1 and 4

The panel noted from the Code of Conduct for Staff included the bundle states that: *“School employees must not engage in inappropriate personal relationships with current or past students. School employees need to take care that their actions are not open to misinterpretation and that good practices are followed.....It is a criminal offence for an employee to have a relationship with a young person, including 16 to 18 year olds, to whom they have or had a duty of care....”* This document also states that, *“No member of staff is allowed to have students currently on roll as “friends” on their social networking pages”*. In addition, the panel noted that the E-safety policy included in the bundle states that, *“Staff are not allowed to have students currently on roll or governors of the School as “friends” on their social networking pages”*. The panel noted neither of these documents made clear it was inappropriate to send messages to or befriend former pupils over the age of 18 via social media. Mr Tinsley’s oral evidence was that these procedures did not clearly spell out that contact with former pupils via social media was inappropriate.

When questioned by the panel, Witness A stated that the School made clear to staff such as Mr Tinsley that any communications with pupils should be through the School email address and all communications should use appropriate language regardless of whether they are with either current or former pupils. It was also made clear to staff that relationships should remain professional even if a former pupil has left the School roll and are aged over 18. The School provides yearly updates to all staff and this follows the Department for Education guidance.

The panel considered that, in accordance with the Code of Conduct for Staff, which refers to inappropriate relationships with past students and having a duty of care beyond those students on the school roll, that Mr Tinsley had a duty of care towards Pupil A which he breached.

The panel considered that the conduct found proven at allegations 1(a)(i) to 1(a)(v), 1(b) and 4 was evidence of Mr Tinsley failing to maintain appropriate professional boundaries and/or maintain appropriate professional standards in relation to Pupil A.

The overriding stem of allegations 1 and 4 is therefore found proven.

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

2. When Pupil A was a pupil in around Years 9 and 10 at the School, you called her ‘beautiful’ on one or more occasions

As the panel accepted the presenting officer’s application to withdraw this allegation, this allegation is found not proven.

3. When Pupil A was a pupil in around Year 9 at the School, you patted her bottom with a clipboard

As the panel accepted the presenting officer’s application to withdraw this allegation, this allegation is found not proven.

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

Having found allegations 1 and 4 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. The panel noted that in the course of the hearing Mr Tinsley admitted that his conduct amounts to unacceptable professional conduct.

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 Tinsley in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Tinsley is in breach of the following standards:

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

The panel is satisfied that the conduct of Mr Tinsley fell significantly short of the standards expected of the profession because the messages from Mr Tinsley were sent not long after Pupil A left the School. The nature and content of the messages to an under 18 year old rendered this misconduct of a serious nature. The panel found Mr

Tinsley's behaviour towards Pupil A, was sexually motivated. Mr Tinsley had a duty of care to Pupil A even though she was a former pupil at that time.

The panel has also considered whether Mr Tinsley's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that none are relevant. In particular, the panel considered there was no evidence of any physical contact for it to be able to determine that sexual activity was relevant, even though the panel found Mr Tinsley's sending of messages and photographs to be sexually motivated.

The panel found that Mr Tinsley's misconduct was within the education setting and it is satisfied that Mr Tinsley 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 Tinsley's status as a teacher, potentially damaging the public perception. The panel noted that Mr Tinsley has admitted that these actions may bring the profession into disrepute.

The panel therefore finds that Mr Tinsley's actions constitute conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 and 4 proved, the panel further finds that Mr Tinsley's conduct amounts to both unacceptable professional conduct and 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 Tinsley, there is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate communication with a former pupil aged under 18 which was sexually motivated.

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

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

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 Tinsley. 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. Due to Mr Tinsley having received a previous warning in 2008 for contacting a sixth form pupil by MSN messenger and allegedly suggesting they have a relationship and the conduct found proven in relation to Pupil A, the panel considered that 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;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- sexual misconduct, eg 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 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 determined that there was no evidence that Mr Tinsley's actions were not deliberate or that he was acting under duress, but the panel accepted Mr Tinsley's oral evidence that his personal circumstances seriously affected his ability to make rational judgments.

In his oral evidence, Mr Tinsley explained that he did not seek to excuse his behaviour. His experiences of recent years did affect his thought process. He considered that he lost two best friends following the death of a family member and the breakdown of a relationship with a partner, and therefore he wanted someone to talk to. However, his oral evidence was that in contacting Pupil A he was seeking to make himself feel better, he was not attempting to replace his partner.

The panel considered whether Mr Tinsley had a previous good teaching history. The panel has seen evidence in the chronology and other documents included in the bundle which shows that in addition to the 2008 warning referred to above, Mr Tinsley was also given a written warning in December 2014. The written warning related to an alleged verbal "rant" in the earshot of pupils. This written warning was still under the review at the time of Mr Tinsley's communications with Pupil A.

Witness A's oral evidence was that Mr Tinsley was not considered to be well-organised. Colleagues were aware of the distress in Mr Tinsley's personal life outside the School and they formed the view that Mr Tinsley was struggling. Witness A further stated it was around this time that Mr Tinsley failed to meet deadlines and became erratic. Mr Tinsley's oral evidence is that Witness A's evidence in this regard was incorrect.

Witness A further stated in oral evidence that Mr Tinsley was promoted to subject lead. Mr Tinsley stated that he was regarded as a popular teacher and he had come across several former students since he left the School and none of the students had a, "bad word to say about him". In addition, his oral evidence was that he performed well in performance reviews and there is no evidence that he was a, "bad teacher".

In his oral evidence, Mr Tinsley indicated that he was motivated to, "get out of bed" in order to encourage pupils to exercise outdoors which is his passion. He considers that the lessons learnt in P.E. in the games that are taught and the situations that pupils experience provides invaluable life experience that mirrors the, "real world" unlike more academic subjects.

The panel had regard to the numerous character statements included in the bundle. The statement from a relative indicated that the loss of a family member had a profound effect on Mr Tinsley. The statement goes on to indicate that Mr Tinsley is completely trustworthy to work with children and young people and he is a wonderful teacher. It would be a, "tragedy" to lose such a competent and amiable young man from the profession.

A character statement from a former colleague states that Mr Tinsley always conducted himself in a thoroughly professional manner. As a teacher he coped extremely well with the challenge of motivating pupils who found physical education difficult and he was able to stimulate the most able. He was a supportive and valued team member. Mr Tinsley also has experience of teaching and instructing young people in a wide range of different sporting activities. He is a friendly and approachable young man with a great deal of energy and enthusiasm for teaching.

A further character statement from a former teacher of Mr Tinsley's, who is also a former colleague, states that Mr Tinsley is a lively and charismatic personality. He is a good person who tries to do the best in any given situation. Mr Tinsley would make a valued contribution to middle management meetings, offering support to others and was reliable, supportive and a well-liked colleague to his peers. As a teacher he was fair and consistent with his students and students liked him. He is a reliable, honest and trustworthy colleague.

An additional character statement from another relative states that Mr Tinsley is "superb" at helping young people to improve their personal confidence, health and sporting ability. He was popular with children and parents alike and demonstrated considerable skills and integrity as a professional coach and teacher. He has actively worked at many schools, coaching children and receiving, "nothing but praise and gratitude" from the schools involved.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel is sufficient.

The panel is of the view that applying the standard of the ordinary intelligent citizen recommending no prohibition order is not a proportionate and appropriate response. Recommending that publication of adverse findings is sufficient in this case would unacceptably compromise the public interest considerations present in this case, despite the severity of prohibition for Mr Tinsley.

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 Tinsley. His sexually motivated behaviour towards Pupil A and his previous disciplinary record were significant factors 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 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 serious sexual misconduct, eg 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. The panel determined that even though Mr Tinsley's behaviour towards Pupil A was sexually motivated there was insufficient evidence that Pupil A was harmed or there was potential for her to be harmed by the messages or photographs that Mr Tinsley sent to her. The panel therefore concluded that serious sexual misconduct was not relevant.

It was submitted by Mr Tinsley's representative that Mr Tinsley has shown significant insight over the inappropriateness of his actions.

In his oral evidence Mr Tinsley stated that he is frustrated at finding himself in this position and his conduct was inappropriate. It is, "heart-wrenching" that he is in this position, and the profession he loved being part of, is threatened by his own, "stupidity". He further stated in oral evidence that he would not involve himself in any private form of communication with a pupil or former pupil. He would also consider having a separate social media profile for work reasons and for personal messages with his friends. His oral evidence was that young people and students are used to befriending every person they come across in terms of social media but he will ensure that does not happen to him in the future. It was submitted by Mr Tinsley's representative that Mr Tinsley's insight should render it proportionate for the panel to recommend a review period, should it determine that prohibition is appropriate. It was fair to consider that Mr Tinsley was capable of remediation and be given the opportunity to regain professionalism and re-join the profession he loves.

The panel noted both from the documentary evidence included in the bundle and Mr Tinsley's oral evidence that he has been receiving treatment for health issues for a significant period of time. The health issues were manifest during the period 2015/2016 and had an impact on his behaviour. The panel noted that Mr Tinsley had taken steps to seek appropriate medical support.

The panel felt its findings indicated a situation in which a review period would be appropriate. As such, the panel decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a review period of three years. The panel recognised that Mr Tinsley had gained some insight over the inappropriateness of his actions since these matters came to light. Given the progress that Mr Tinsley has made over the last 16 months, the panel consider that three years would provide sufficient opportunity for Mr Tinsley fully to engage with the rehabilitation or remediation that he has started.

Decision and reasons on behalf of the Secretary of State

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

In considering this case I have noted the withdrawal by the Presenting Officer of two of the allegations and I have accordingly put these matters from my mind.

Throughout my consideration of this case I have taken into account the advice published by the Secretary of State.

In this case the panel has found the two allegations 1 and 4 proven. The panel has found that by reference to Part Two, Mr Tinsley 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 reaching that conclusion the panel gave very careful consideration to the matter of sexual motivation. The panel found Mr Tinsley's behaviour towards Pupil A, was sexually motivated. Mr Tinsley had a duty of care to Pupil A even though she was a former pupil at that time.

The panel has also considered whether Mr Tinsley's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. The panel has found that none are relevant. In particular, the panel considered there was no evidence of any physical contact for it to be able to determine that sexual activity was relevant, even though the panel found Mr Tinsley's sending of messages and photographs to be sexually motivated.

The panel has found the following behaviours are relevant in this case:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;

- sexual misconduct, eg 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;

The panel found that Mr Tinsley's misconduct was within the education setting and it is satisfied that Mr Tinsley is guilty of unacceptable professional conduct.

I have considered carefully the recommendation made by the panel in respect of a sanction. In doing so I have, like the panel, weighed the public interest and the interests of the individual. In particular I have weighed the public interests associated with the reputation of the profession as well as those associated with retaining in teaching individuals who have something to offer. A finding of unacceptable professional conduct and/or conduct that may bring the profession into disrepute is of itself a serious matter and may be a sufficient outcome of these types of procedures in some cases. In this case the panel has set out clearly that publication of adverse findings is not sufficient and would unacceptably compromise the public interest considerations present in this case, despite the severity of prohibition for Mr Tinsley.

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 Tinsley. His sexually motivated behaviour towards Pupil A and his previous disciplinary record were significant factors in forming that opinion.

For those reasons and having similarly weighed the public interest with the interests of Mr Tinsley I have concluded that a prohibition order is proportionate and in the public interest.

I have gone on to consider the panel's recommendation in respect of a review period. I have thought carefully about the mitigating factors put forward for the teacher and the other matters considered by the panel.

I have noted the comments of the panel on insight and remorse. I have also noted that there are some health issues that Mr Tinsley is addressing. The panel conclude "It was fair to consider that Mr Tinsley was capable of remediation and be given the opportunity to regain professionalism and re-join the profession he loves.....In addition, the panel noted that Mr Tinsley had taken steps to seek appropriate medical support."

I have considered the recommendation of the panel. I agree that it would be proportionate for the prohibition order to be issued with provision for a review period of three years. This period of time should provide sufficient opportunity for Mr Tinsley fully to engage with the rehabilitation or remediation that he has started.

This means that Mr Christopher Tinsley is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 16 March 2020, 3 years from the date of this order at the earliest. This is not an

automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Christopher Tinsley remains prohibited from teaching indefinitely.

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

Mr Christopher Tinsley 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 blue ink, appearing to read 'Alan Meyrick', with a stylized flourish at the end.

Decision maker: Alan Meyrick

Date: 10 March 2017

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