



National College for
Teaching & Leadership

Mr Guy Rogers: Professional conduct panel outcome

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

December 2017

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

Teacher: Mr Guy Rogers

Teacher ref number: 3847406

Teacher date of birth: 30 May 1973

NCTL case reference: 15411

Date of determination: 20 December 2017

Former employer: Stonar School, Melksham

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 4 to 5 July 2017, 1 December 2017 and 20 December 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Guy Rogers.

The panel members were Mr Sathi Ariya (lay panellist – in the chair), Ms Gail Goodman (teacher panellist) and Professor Roger Woods (former teacher panellist).

The legal advisers to the panel were Mr Guy Micklewright on 4 to 5 July 2017 and Mr Delme Griffiths on 1 December 2017 and 20 December 2017, both of Blake Morgan LLP solicitors.

The presenting officer for the National College was Miss Gudrun Young of Nabarro LLP solicitors on 4 to 5 July 2017 and Ms Lucy Coulson of Browne Jacobson LLP on 1 December 2017 and 20 December 2017.

Mr Rogers was present throughout and was represented by Mr Tim Angell.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 31 March 2017.

It was alleged that Mr Rogers was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as a teacher at Stonar School ("the School") he:

1. Failed to maintain appropriate professional boundaries and/or appropriate professional standards in respect of Pupil A and/or Pupil B, in particular:
 - a. He engaged in inappropriate conversations with them, particularly of a sexual nature, including but not limited to:
 - i. Telling them about previous sexual experiences;
 - ii. Telling them about the number of previous sexual partners he had had;
 - iii. Telling them that he owned/used sex toys;
 - iv. Telling them who and/or what he found sexually attractive;
 - v. Asking them about their sexual experiences and/or preferences;
 - vi. Discussing people's sexuality and/or stating that "*men prefer women who are lesbians/bisexual*" or words to that effect;
 - vii. Telling Pupil A that she should lose her virginity by the age of [redacted];
 - b. Calling them "*Babe*" or "*Baby*" or "*beautiful*" and/or singing love songs to them;
 - c. Asking them if they thought he was attractive and/or would consider going out with him.
 - d. Encouraging them to feel his biceps and/or his stomach muscles;
 - e. Seeking their personal telephone numbers;
 - f. Making inappropriate jokes;
 - g. Making racist remarks;
 - h. Discussing personal matters including:
 - i. His relationship with his wife and his separation/divorce;

- ii. That he no longer wanted to have sexual intercourse with his wife;
 - iii. That he suffers from depression;
 - iv. His personal debt and/or financial difficulties;
 - v. The sale of his house.
2. On one or more occasions he offered Pupil A and/or B some of his anti-depressant medication.
 3. In carrying out the actions described at 1.a. – 1.e. above his actions were sexually motivated.

Other than in relation to certain factual elements of allegations 1(a)(vi), 1(b), 1(h)(i), 1(h)(ii), 1(h)(iii) and 1(h)(v), the allegations were denied and Mr Rogers also denied that his conduct amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary application

The panel considered an application from Mr Rogers to admit the hearsay evidence of Individual A. The evidence in question is contained in an undated testimonial in support of Mr Rogers. The evidence alleges, among other matters, that Pupils A and B engage in malicious and manipulative behaviour, have a history of bullying, and have approached Individual A's daughter on at least three occasions demanding that she collude with them and support their 'story'. The application was opposed by the NCTL.

The panel determined to admit the evidence. It is clearly highly relevant to the panel's assessment of the credibility of the evidence of Pupils A and B. The contents of the statement are key to much of Mr Rogers' case. The panel were told that extensive efforts had been made by Mr Rogers to get Individual A to attend to give evidence but, due to fear of repercussions to her daughter, she did not wish to. This had not been mentioned in correspondence to the NCTL from Mr Rogers and his representative and, therefore, he was not informed of any special measures that might be made available for Individual A.

The panel accepted the submission of the presenting officer that it would be difficult for the NCTL to test the evidence in any meaningful way in the absence of the witness. The issue for the panel, therefore, was whether the inability of the NCTL to properly challenge the evidence, beyond calling evidence on the allegations from Pupils A and B, created such unfairness as to render the evidence inadmissible.

The panel had significant reservations about admitting the evidence. However, on balance, it determined to do so. The panel considered it important that the teacher's representative has the opportunity to question Pupils A and B on these issues. Not admitting the evidence would deny the panel any opportunity at all to consider whether

there was any truth in the allegations made by Individual A. The panel considered that it was possible, in all the circumstances, for the panel to in due course, consider carefully what weight – if any – should be afforded to the evidence, once all the evidence in the case has been adduced and the parties' full submissions heard. Cognisant of the risks inherent in the evidence, the panel will approach its consideration of it with an appropriate degree of caution.

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 12

Section 3: NCTL witness statements – pages 13 to 26

Section 4: NCTL documents – pages 27 to 42

Section 5: Teacher documents – pages 43 to 56

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

In addition, the panel agreed to accept the following:

- Supplemental witness statements of Witness A.
- Supplemental witness statements of Pupil A.
- Supplemental witness statements of Pupil B.
- Unredacted copy of Individual A's testimonial.

Witnesses

The panel heard oral evidence from the following witnesses called by the presenting officer:

- Witness A, deputy headteacher at the School;
- Witness B, a former bursar at the School.
- Pupil A;
- Pupil B;

The panel also heard oral evidence from Mr Rogers.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel has carefully considered the case before it and reached a decision. It accepted the legal advice provided.

Introduction

Throughout the relevant time for the purposes of these proceedings, Mr Rogers was employed at the School as a peripatetic music teacher.

He commenced working at the School in January 2005.

On 4 April 2015, Pupil A and Pupil B made a report to Witness A, a deputy headteacher at the School, regarding Mr Rogers' conduct during lessons.

Pupil A and Pupil B were both aged [redacted] at the time. Pupil A had been taught guitar by Mr Rogers since year [redacted] and Pupil B had been taught guitar by him since year [redacted].

Pupil A and Pupil B's report concerned alleged incidents and comments said to have been made by Mr Rogers during lessons, particularly in the period of a year and a half prior to the matter being reported.

They had not complained about Mr Rogers previously.

Pupil A and Pupil B gave evidence that they decided to report their concerns at this stage after being overheard talking about Mr Rogers by another pupil at the School who encouraged them to report the matter.

Witness A took the immediate step of requiring Pupil A and Pupil B to provide a written account of their concerns independently and on 6 May 2015 a LADO investigation commenced.

Mr Rogers was subsequently invited to an interview at Melksham Police Station on 10 June 2015, however no criminal prosecution was ultimately pursued against him.

On 19 June 2015, Mr Rogers ceased employment at the School and his conduct was referred to the National College.

Evidence considered by the panel

The panel read all the documents included within the hearing papers.

It heard oral evidence from Pupil A, Pupil B, Witness A and Witness B who were called by the presenting officer.

Witness A and Witness B were not in a position to give first hand evidence of the key factual matters central to the allegations against Mr Rogers.

However, the panel considered that both Witness A and Witness B were credible and truthful and gave clear evidence.

Pupil A and Pupil B provided written and oral evidence addressing the specific allegations made against Mr Rogers and in doing so also addressed the circumstances of and nature of their lessons with Mr Rogers. [Redacted]

Their accounts were corroborative, both with regard to events they were both a party to and as to their individual experiences of Mr Rogers' lessons and his behaviour.

Mr Rogers invited the panel to question the extent to which the accounts of Pupil A and Pupil B corresponded and to consider whether they were colluding maliciously. He relied upon the written hearsay account of Individual A. In that account, Individual A alleged, inter alia, that Pupils A and B had engaged in malicious and manipulative behaviour, had a history of bullying and had approached Person Z's daughter, Pupil C, demanding that she collude with them.

In the absence of hearing from Individual A or Pupil C and being able to test their accounts, this evidence was treated with caution. Individual A's document was unsigned and its origins uncertain. Individual A was either unable or unwilling to give evidence, it being suggested that they were in France. As well as being hearsay evidence, Individual A's account was also second-hand in some respects given that it referred to information said to have been relayed by Pupil C, also a pupil at the School who was taught guitar by Mr Rogers. The panel heard unsubstantiated allegations of bullying involving Pupil C, which it considered were not supported by the evidence it heard and considered.

Mr Rogers also relied upon the circumstances in which the allegations were reported by Pupil A and Pupil B. No allegations were made until after they had ceased lessons at the end of Year [redacted] and not at any point previously. There was no evidence that they mentioned their concerns to a teacher or their parents at any stage. Whilst there was a suggestion that they did not learn a great deal from their lessons, they continued them for a number of years. Mr Rogers also stated that at no stage did they appear upset or distressed during the course of any lesson.

Having considered all of the evidence and the parties' submissions, the panel was not satisfied that Pupil A and Pupil B had behaved inappropriately or that they had an improper motive. This was not supported by the evidence.

The panel placed little relevance on the fact that Pupil A and Pupil B did not raise any concerns until a relatively late stage. The alleged conduct spanned a period of time when

Pupil A and Pupil B were undergoing rapid personal development and it was also possible that Mr Rogers' conduct of lessons had become to seem normal by them. Mr Rogers was also described as an outgoing and "cool" character.

The panel also concluded that any suggestion of inappropriate collusion on their part was undermined by Witness A's evidence as to the circumstances in which Pupil A and Pupil B independently provided their written accounts.

Witness A confirmed that neither pupil, had made any allegation in the past about any other teachers and they both had exemplary records.

Witness B's evidence was similar, that there was no evidence that they had made the allegations up and there was no motivation for them to do so.

The panel noted that the majority of their lessons were not held together such that a large part of their evidence related to their own independent and personal experiences of their lessons with Mr Rogers.

As well as Pupil A and Pupil B corroborating each other's accounts, in certain instances their accounts were supported by Mr Rogers' recollection of events and his admissions with regard to certain of the allegations.

Mr Rogers' position was that whilst there were some elements of truth in what they said, they had embellished their accounts and lied insofar as their evidence conflicted with his own. There were accordingly numerous factual disputes which the panel was required to resolve.

Pupil A and Pupil B's accounts were also corroborated to some extent by the written accounts of Mr Rogers' meetings with the police and Witness B. Witness B stated that he had not seen Pupil A or Pupil B's statements at the time of his meeting with Mr Rogers.

Whilst the author of the police extract, Individual B, was not called to give evidence, the panel noted that it confirmed, in summary, that "Mr Rogers accepted a large amount of what the girls had said about him, but made specific denials."

These records were not accepted by Mr Rogers as being accurate in their entirety, though he did accept that certain aspects were accurate.

The panel considered that the degree of corroboration between these independent records of comments said to have been made by Mr Rogers and the accounts of Pupil A and Pupil B also undermined the suggestion that they had made up the accusations and were acting maliciously.

Pupil A and Pupil B confirmed that they did not discuss with each other what they were going to write in their statements given to the School. They were open about the fact that

they did discuss some aspects of Mr Rogers' behaviour and that they were close friends who socialised outside of school.

The panel also had the benefit of hearing oral evidence from Mr Rogers who made some factual admissions during the course of the hearing.

The panel has not relied upon any opinions expressed in papers, which formed part of the documentation for the investigation undertaken by the School. It has formed its own view of the allegations based on the evidence presented to it.

Findings of fact

Our findings of fact are as follows:

We have found the following particulars of the allegation against you proven, for these reasons:

- 1. Failed to maintain appropriate professional boundaries and/or appropriate professional standards in respect of Pupil A and/or Pupil B, in particular:**
 - a. You engaged in inappropriate conversations with them, particularly of a sexual nature, including but not limited to:**
 - i. Telling them about previous sexual experiences**

Pupil A alleged that there were 5 or 6 occasions when Mr Rogers discussed topics of a sexual nature which made her feel uncomfortable. She stated that Mr Rogers told her that he had previously had a 'threesome' and that one of his friends had bought him sex toys.

Pupil A stated that he would discuss previous girlfriends and referred to an incident where he had "poisoned" a girlfriend while on holiday with her so that he and a friend could socialise with other women. She indicated that this particular conversation had come about when she asked him if he had gone on holiday with the mother of another pupil, which was rumoured at the time. Pupil A stated that this led Mr Rogers to relay, "his holiday stories". In oral evidence she confirmed that this discussion took place in the context of discussing cheating, a topic Pupil A said was brought up by Mr Rogers.

Pupil B's evidence was that the topics of conversation Mr Rogers would initiate during lessons became worse, from her perspective, in Year [redacted] and Year [redacted] he started to talk about his sex life. She alleged that he told her about his past sexual experiences and how he owned sex toys, but made her "pinky" promise not to tell anyone.

In oral evidence, she elaborated upon matters of a sexual nature said to have been discussed by Mr Rogers and referred to him discussing the topic of his sexual

experience. The only specific example she gave was that Mr Rogers told her about how someone had offered him a sexual favour whilst he was married.

Mr Rogers denied the allegation and the accounts provided by Pupil A and Pupil B.

There was accordingly a conflict of evidence.

On balance, and having considered all of the evidence the panel preferred the accounts provided by Pupil A and Pupil B. Their accounts alluded to similar experiences and the panel considered that it was highly unlikely, given the detail proffered, that they were fabricated. It therefore concluded that it was more likely than not that Mr Rogers had engaged in conversations with both Pupil A and Pupil B on several occasions in which he discussed previous sexual experiences. Such conversations were clearly inappropriate and, whatever Mr Rogers' motivation was for making such comments, by engaging with the pupils in this manner he had failed to maintain appropriate professional boundaries and standards.

The panel therefore found allegation 1(a)(i) proven.

iii. Telling them that you owned/used sex toys

Pupil A stated in her witness statement to the National College that Mr Rogers told her that one of his friends had bought him sex toys.

In oral evidence she elaborated upon the conversation in which this was alleged to have been said to her.

Pupil B also alleged that Mr Rogers told her that he owned sex toys and made her promise not to tell anyone.

In oral evidence both Pupil A and Pupil B gave identical evidence as to the nature of a specific sex toy referred to by Mr Rogers.

Mr Rogers denied this allegation. He stated that no such conversations ever took place.

The panel considered that, given the corroboration between the accounts of Pupil A and Pupil B and given the absence of any evidence that they had any reason to fabricate this very specific allegation, it was more likely than not that Mr Rogers did tell both Pupil A and Pupil B that he owned at least one sex toy. There was no evidence that Mr Rogers made any comment to either pupil that he in fact used sex toys.

Such discussions were clearly inappropriate and the panel concluded that, by engaging with the pupils in this manner, Mr Rogers had failed to maintain appropriate professional boundaries and standards.

Allegation 1(a)(iii) was found proven on that specific basis.

iv. Telling them who and/or what you found sexually attractive

Pupil A alleged that Mr Rogers discussed with her his dislike of "fat women". She also alleged that Mr Rogers told her that he preferred toned women and followed this with, "you're quite muscly aren't you". In her written account provided to Witness A, Pupil A also referred to Mr Rogers describing his "perfect women" and how "his dream woman has to be toned with muscle ...". In oral evidence Pupil A also stated that Mr Rogers commented that her mother was, "really pretty". She added that he stated he could, "take your mum off your dad easy."

The panel also noted that an extract from an investigation log provided by Wiltshire Police, concerning its meeting with Mr Rogers, also purports to record Mr Rogers accepting that he had probably said that he does not like "fat women". Mr Rogers disputed this was an accurate record of what was said.

In oral evidence, Pupil B was asked about other topics Mr Rogers would introduce and stated, "He was like proving he was attracted to what, like his past sexual experience, sexuality." However, she did not provide any specific examples of comments relating to who or what Mr Rogers found sexually attractive.

Mr Rogers denied the allegation. He denied that he discussed any matters of a sexual nature with Pupil A or Pupil B.

On balance, the panel preferred the evidence of Pupil A. It therefore concluded that Mr Rogers did make comments to Pupil A discussing his sexual preferences. It did not find that any such comments were made to Pupil B.

It was plainly inappropriate to have such conversations with a pupil. They have no place in a classroom environment. By engaging with Pupil A in this manner, Mr Rogers had failed to maintain appropriate professional boundaries and professional standards.

The panel therefore found allegation 1(a)(iv) proven.

v. Asking them about their sexual experiences and/or preferences

Pupil A stated that she had a boyfriend, which Mr Rogers was aware of. She alleged that Mr Rogers asked her, "what I had done with him and whether I had kissed him or had sex with him". Her evidence was that she did not respond as she was made to feel very uncomfortable. In her written account to the School, Pupil A also records Mr Rogers asking her if she would, "ever sleep with a black guy". Both Pupil A and Pupil B allege that Mr Rogers asked them if they thought he was attractive, which was the subject of allegation of 1(c).

Mr Rogers denied this allegation. He denied making any such comments.

On balance, the panel preferred the evidence of Pupil A. It therefore concluded that Mr Rogers did ask Pupil A about her sexual experiences with her boyfriend and, albeit to a limited extent, about her sexual preferences.

Once again, by its very nature such a conversation was clearly inappropriate. By discussing such matters with Pupil A, Mr Rogers' conduct was such that he had failed to maintain appropriate professional boundaries and standards.

The panel therefore found allegation 1(a)(v) proven.

vi. Discussing people's sexuality and/or stating that "men prefer women who are lesbians/bisexual" or words to that effect

Pupil A stated that during the course of a joint lesson with Pupil B, Mr Rogers relayed to them some statistics as to how many women were "lesbian, bisexual and straight." She alleged that having said this, Mr Rogers:

"... left a pause and I felt he was waiting for either myself or Pupil B to say we were bisexual/lesbian. He then told us that men prefer women who are bisexual."

Pupil B provided a similar account of this lesson and stated that Mr Rogers talked to her and Pupil A about how men liked lesbians and had referenced statistics. She added that, "I believe he said that men, like, like men I guess thought it was a turn on if the girl's a lesbian which is kind of gross, so yeah."

Mr Rogers admitted to a discussion taking place whereby a pupil referred to another pupil being a lesbian and that he had referred to a statistic that 30% of all women had lesbian tendencies. He denied otherwise discussing people's sexuality and also denied that the discussion he did have was inappropriate. In his oral evidence, he stated:

"I think they were talking about one of the girls in the school who was a lesbian. ... The topic came up, you know, lesbians, bisexuality, that sort of thing. I said – I remember – I'd seen it in the paper that 30% of ... I'd read that 30% of women were bisexual or lesbian; that's what I said; and never said anything else."

He asserted that Pupil A and Pupil B were otherwise lying in relation to their accounts.

The panel preferred the evidence of Pupil A and Pupil B. Their evidence was consistent and it was also supported at least in part by Mr Rogers himself given his partial admission. In addition, in light of the panel's findings in relation to allegations 1(a)(i)-(v) it considered that such a conversation was not atypical of the types of conversations Mr Rogers had with Pupils A and B.

The panel therefore found that in this particular lesson Mr Rogers did discuss people's sexuality and made a comment regarding men preferring women who were lesbians or bisexual.

The panel had in mind that this was a music lesson. There was accordingly no reason for such matters to be discussed. It concluded that in all the circumstances, this conversation was inappropriate and, by engaging with Pupil A and Pupil B in this manner, Mr Rogers had crossed the threshold such that he had failed to maintain appropriate professional standards and professional boundaries.

The panel therefore found allegation 1(a)(vi) proven.

vii. Telling Pupil A that she should lose her virginity by the age of [redacted]

Pupil A alleged that she was told by Mr Rogers, "how I should lose my virginity at [redacted] years old".

In the wider context, as noted above Pupil A had a boyfriend and Mr Rogers asked her "what I had done with him and whether I had kissed him or had sex with him". In her written account to Witness A, Pupil A also referred to Mr Rogers suggesting she should have "at least 4 sexual partners".

In oral evidence, she stated that this comment was made in the discussion when Mr Rogers was discussing his own sexual experiences and addressed how he lost his own virginity.

Mr Rogers denied that this conversation took place. There were no other witnesses to this conversation.

On balance, the panel preferred the evidence of Pupil A which it considered to be clear and credible. She had maintained her position throughout; from the time she gave her first statement to the School through to her oral evidence before the panel.

The panel accordingly concluded that Mr Rogers did make a comment to Pupil A to the effect that she should lose her virginity by the age of [redacted]. This comment was made in a wider conversation regarding Mr Rogers' own sexual experiences and the panel concluded that such a conversation was certainly inappropriate. There was no basis for such matters to be discussed with Pupil A or indeed any pupil. By making this comment to Pupil A, the panel considered that Mr Rogers had once again failed to maintain appropriate professional boundaries and standards.

The panel therefore found allegation 1(a)(vii) proven.

c. Asking them if they thought you were attractive and/or would consider going out with you

Pupil A alleged that she was asked by Mr Rogers if she found him attractive. In oral evidence she stated that such comments were made on 4 or 5 occasions. She also

referred to an incident where Mr Rogers asked her and Pupil B, "whether we would marry an older man and did we find him attractive."

Her account was corroborated by Pupil B who also stated that Mr Rogers would ask her and Pupil A if they found him attractive.

Mr Rogers denied ever making such comments.

On balance, the panel preferred the evidence of Pupil A and Pupil B in relation to this allegation.

There was clear evidence that there was a degree of informality in his lessons and the panel noted that he was recorded as acknowledging during the course of his police interview that, "he is not an unattractive man and that the girls would see him as attractive, asserting that when he goes into the school, he gets the same reaction as would have been expected had he been Brad Pitt walking into the school. He further stated that he knows that the girls find a 56 year old teacher at the school attractive."

Whilst Mr Rogers challenged certain aspects of the police extract, the panel concluded that, given the level of detail here, it was more likely than not that he did say words to this effect.

The panel concluded that, having considered all of the evidence, it was more likely than not that Mr Rogers did ask Pupils A and B if they thought he was attractive and/or would consider going out with him.

Whatever Mr Rogers' motivation was for making such comments, the panel concluded that such comments were certainly inappropriate and went beyond what was to be expected of communications between a teacher and a pupil. He had therefore failed to maintain appropriate professional boundaries and standards.

The panel therefore found allegation 1(c) proven.

d. Encouraging them to feel your biceps and/or your stomach muscles

Pupil A alleged that in April 2015 she was told by Mr Rogers that he had been "working out" and that he was "close to getting a six pack". She stated that:

"He got up and came over to me and asked me to feel his stomach and how hard it was. I did not know what to do as I did not feel I could say no, so I poked his stomach just above the belt."

Pupil B's evidence was that during one lesson Mr Rogers asked her to feel his biceps. She alleged that she declined to do so at which point Mr Rogers moved to stand next to her and implored her to feel his biceps, which she did.

In oral evidence, she elaborated upon this, stating that, "I didn't really feel like I had the option to say no because he was right there so I just poked it and that was it".

The panel noted that the extract from the investigation log provided by Wiltshire Police purports to record Mr Rogers accepting that he had told a pupil he had been working out, but denied asking her to poke his biceps.

Mr Rogers denied that either incident took place. In the course of questioning by the presenting officer; he accepted that he may have referred to his working out and also conceded that he may have said, "Hey I'm going to get a 6-pack".

Taken as a whole, the panel considered that this aspect of Mr Rogers' evidence was unsatisfactory in that it was equivocal.

To the contrary, Pupil A and Pupil B gave consistent accounts of two separate incidents, which were of a similar nature. Mr Rogers accepted aspects of their evidence and the panel did not accept Mr Rogers' suggestion that they colluded to concoct their separate accounts.

The panel accordingly concluded that it was more likely than not that Mr Rogers did ask Pupil A and Pupil B to feel his biceps and stomach muscles respectively.

This was certainly inappropriate and the panel decided that in doing so he had failed to maintain appropriate professional boundaries and professional standards.

The panel therefore found allegation 1(d) proven.

g. Making racist remarks

Pupil A alleged that Mr Rogers mocked the South African accent and made inappropriate comments about South Africans being violent and that they did not, "treat women right". She alleged that Mr Rogers also made racist remarks about black women and stated that if his daughter had a boyfriend who was black, he would not be happy.

Pupil B's evidence was that Pupil B alleged that Mr Rogers made racist jokes about Muslims on 2 or 3 occasions. She stated he also complained about the number of Polish people at his children's school, also on 2 or 3 occasions. She similarly stated that Mr Rogers had made a comment to her to the effect that he would not be happy if his daughter married a black man.

The panel noted that an extract from the investigation log provided by Wiltshire Police purports to record Mr Rogers' accepting that, "had made the comment about his daughter and a big black guy" and that "he had said things which could be interpreted as racist". Mr Rogers' evidence was that this was inaccurate. At a different point in the log, with reference to Pupil B's account, it records Mr Rogers denying that he had said he would be upset if his daughter had a black boyfriend.

Mr Rogers did accept in oral evidence that he made comments about Polish people at his children's school but denied that he did so in a way that could be considered inappropriate. He denied making any other remarks that could have been construed as being racist.

Given the consistency between the accounts provided by Pupil A and Pupil B and in light of the fact that Mr Rogers accepted making comments about Polish people, which supported their accounts at least in part, the panel considered on the balance of probabilities that Mr Rogers did make these remarks. It therefore accepted Pupil A and Pupil B's accounts in preference to Mr Rogers' evidence on the facts.

The panel considered it was highly unlikely that they would make up such specific comments and they had no motivation to do so.

On any level these remarks were certainly racist. In making them, the panel concluded that Mr Rogers had failed to maintain appropriate professional boundaries and standards. Such remarks went beyond what was appropriate as regards communications between a teacher and a pupil.

The panel therefore found allegation 1(g) proven.

h. Discussing personal matters including:

i. Your relationship with your wife and your separation/divorce

Pupil A alleged that Mr Rogers discussed with her the possibility of leaving his wife and was concerned that this would cause him to be depressed. She also alleged that he informed her, after Easter 2015, that he had left his wife and moved back in with his mother.

Pupil A also stated that she discussed the possible sale of his house with Mr Rogers who told her that, if he decided to sell, he would also have to decide whether or not to leave his wife. She alleged that Mr Rogers told her that he liked his own company and that was why he wanted to leave his wife.

Pupil B's evidence was that the topics of conversation she discussed with Mr Rogers changed around the time she was in Year [redacted] when he would talk to her about his family life. She alleged that Mr Rogers would tell her about problems he was having and that he was very unhappy and having marriage issues.

Witness B gave evidence that Mr Rogers admitted talking about his private life during the course of their interview on 16 June 2015.

The panel also noted that an extract from the investigation log provided by Wiltshire Police purported to record Mr Rogers accepting that, "he had been rude about his wife (and later on stated that he and his wife have not been getting on)". It also records him

accepting that, "he would have said that he is not attracted to his wife anymore" and that he had talked about being undecided about leaving her. Mr Rogers disputed this was an accurate record of what he said.

In his undated letter to the National College, Mr Rogers accepted that he may have told a pupil that his marriage had broken down but only in a general sense. At the outset of the hearing, it was indicated that Mr Rogers accepted that he did mention his divorce to Pupils A and B. Allegation 1(h)(i) was partially admitted on that basis. However, he denied that in doing so he had engaged in conversations that were inappropriate. In oral evidence, he subsequently accepted that, "it was probably inappropriate to talk about separation in that much detail".

The panel considered that in light of Mr Rogers' admission and having considered all of the evidence, it was clear that he did discuss his relationship with his wife, including their separation and divorce. Mr Rogers accepted that he moved in with his mother around April 2015 which was clearly known to Pupil A. He accepted that he may have told Pupil A and Pupil B about this.

On balance, the panel concluded that it was inappropriate to have discussed such personal matters with pupils to this extent. Whilst Mr Rogers' evidence was that he may have discussed his divorce in the context of one of the pupils raising it, the panel considered his evidence was equivocal on this issue. Further, there was clear evidence which suggested that a number of conversations took place in relation to this issue. It was put to Mr Rogers in cross-examination that he had "off-loaded" onto Pupils A and B and the panel accepted that this was an accurate description of what had occurred. It considered that this was certainly inappropriate and his behaviour was such that he had failed to maintain appropriate professional boundaries and standards.

The panel therefore found allegation 1(h)(i) proven.

ii. That you no longer wanted to have sexual intercourse with your wife

Pupil A alleged that Mr Rogers told her that he did not want to sleep with his wife and that he was not getting any pleasure from her. Her written account provided to Witness A notes Mr Rogers telling her, "how his wife was quite fat and how he wasn't really attracted to her anymore".

Whilst Pupil B did not suggest that Mr Rogers specifically discussed with her the issue of him not wanting sexual intercourse with his wife, her written account to the School records that, "he would often be rude about his wife, I would say something like "don't say that" he would respond, it doesn't matter, I don't really love her". In oral evidence she also stated, "he would sort of complain about his wife and was like "oh she's fat, I don't really love her" saying he was miserable".

Mr Rogers denied ever alluding to no longer wanting sexual intercourse with his wife. In oral evidence, he stated that his relationship with his wife deteriorated for entirely separate reasons and he would not have made such comments, as they were not true.

On balance, the panel considered that it was more likely than not that Mr Rogers did make comments to the effect that he no longer wanted to have sexual intercourse with his wife. It considered this was supported by its findings in relation to allegation 1(h)(i), namely that Mr Rogers had on numerous occasions discussed with Pupils A and B his relationship with his wife. The panel preferred the evidence of Pupil A in relation to this allegation, which was supported in part by Pupil B.

The panel concluded that such comments were patently inappropriate and were such that he failed to maintain appropriate professional standards and boundaries.

The panel therefore found allegation 1(h)(ii) proven.

iii. That you suffer from depression

Pupil A's evidence was that she knew Mr Rogers suffered from depression as he would mention it during lessons. In her witness statement to the National College she stated that he made inappropriate remarks to her which he would follow with mention of his depression, which made her feel bad for him. She also alleged that Mr Rogers stated that he was concerned that, if he left his wife, this would result in his being depressed. Pupil A stated that this made her feel uncomfortable.

In oral evidence, she stated that Mr Rogers would discuss his depression in a personal, non-educational context.

Pupil B's evidence was that Mr Rogers was very open about the fact that he suffered from depression.

Mr Rogers' evidence was that he did talk about depression. He accepted that he was open about his depression and talked to both Pupil A and Pupil B about it individually. He accepted that he "probably" told them he was on anti-depressants and accepted that he told them about an incident when he had a panic attack in school.

However, he denied that he had engaged in any conversations in relation to this subject that were inappropriate. The allegation was denied on that basis.

The panel considered that such discussions were inappropriate between a pupil and a teacher. There was clear evidence that Mr Rogers' depression, as opposed to depression as a general subject, was discussed with the pupils on a number of occasions. In oral evidence, Mr Rogers stated that he did not address his mind as to whether he might have made them feel awkward or uncomfortable. The panel concluded that he should have done and that the conversations were such that they crossed the boundary of what was

appropriate. Mr Rogers also accepted in questioning that, with the benefit of hindsight, he would not contemplate discussing such matters in the future.

On that basis, the panel concluded that Mr Rogers had failed to maintain appropriate professional boundaries and standards in discussing this personal matter with Pupil A and Pupil B.

The panel therefore found allegation 1(h)(iii) proven.

iv. Your personal debt and/or financial difficulties

Pupil A alleged that she was aware that Mr Rogers had financial issues as he talked about his personal debt and referred to the possible need to sell his house.

Pupil B's evidence was that Mr Rogers also discussed with her that he had money issues. In oral evidence, she referred to Mr Rogers talking about having debt and the need to sell his house and complaining about his brother-in-law having more money than him.

The panel also noted that the extract from the investigation log provided by Wiltshire Police purports to record Mr Rogers accepting that he had spoken openly about debt. Mr Rogers disputed this was an accurate account of what was said.

Mr Rogers denied this allegation. He stated that he did not disclose details of his personal finances to any pupils and had never had any issues with debt. In oral evidence, he gave an account of his financial circumstances at that time, however no documentary evidence was provided to the panel to support his assertions. He stated that he did not have a brother-in-law but did have a brother who worked in finance in London, however he denied making reference to his brother having more money than him to Pupil B.

The panel noted that Mr Rogers accepted discussing the sale of his house in the context of his divorce to the pupils. They clearly knew that he was going to have to sell his house and this information could only have come from Mr Rogers. In those circumstances and given the evidence of the pupils, the panel concluded that it was more likely than not that Mr Rogers did make comments to the pupils that they could have construed as being a reference to financial difficulties, whatever his personal circumstances were.

It was not appropriate for a teacher to discuss such matters with a pupil. They were strictly personal matters. The panel therefore concluded that by discussing such matters Mr Rogers had failed to maintain appropriate professional boundaries with Pupil A and Pupil B.

The panel therefore found allegation 1(h)(iv) proven on that basis.

v. The sale of your house

Pupil A and Pupil B stated that Mr Rogers discussed with them the sale of his house.

At the outset of the hearing Mr Rogers accepted that he did mention his house sale to them. The facts of allegation 1(h)(v) were accordingly admitted. However, Mr Rogers denied that in doing so he had engaged in conversations that were inappropriate.

However, the panel concluded that it was not appropriate for a teacher to discuss such matters with pupils given the wider context, namely that the information was relayed in relation to his separation and divorce from his wife and his financial position generally. These were strictly personal matters. The panel therefore concluded that by discussing the sale of his house in that context Mr Rogers had failed to maintain appropriate professional boundaries with Pupil A and Pupil B.

The panel therefore found allegation 1(h)(v) proven on that basis.

We have found the following particulars of the allegations against you not proven, for these reasons:

- 1. Failed to maintain appropriate professional boundaries and/or appropriate professional standards in respect of Pupil A and/or Pupil B, in particular:**
 - a. You engaged in inappropriate conversations with them, particularly of a sexual nature, including but not limited to:**
 - ii. Telling them about the number of previous sexual partners you had had**

Pupil A alleged that Mr Rogers told her how many men and women he had slept with. She could not recall the exact number.

Pupil B did not suggest that any such comment was made in her presence.

Mr Rogers denied the allegation. He stated that no such conversation ever took place.

The panel considered that whilst it was satisfied that Mr Rogers was likely to have discussed his previous sexual partners in a general sense, as per its findings in allegation 1(a)(i), Pupil A's account of this conversation was vague in terms of detail.

In oral evidence she stated that Mr Rogers only implied that he had slept with men rather than saying so expressly. Mr Rogers' evidence was that he was heterosexual. Pupil A also could not recall how many sexual partners Mr Rogers said he had had. The panel considered this was material. If Mr Rogers had stated an actual number, the panel considered she was more likely than not to have remembered it. On that basis the panel could not be satisfied, on the balance of probabilities, that Mr Rogers had in fact stated to Pupil A the number of previous sexual partners he had.

The panel therefore found allegation 1(a)(ii) not proven.

b. Calling them "Babe" or "Baby" or "beautiful" and/or singing love songs to them

Pupil A's evidence was that she started to have concerns about Mr Rogers' conduct at the start of Year [redacted] and stated that he would often call her "Babe" or "Baby" and sing love songs to her during lessons. She stated that she spoke to Pupil B about this.

In oral evidence she stated that he would replace her name and use "Babe" or "Baby" instead. She gave an example as being, "Babe, can you do this" and said that similar comments were made almost every lesson.

She also elaborated upon the circumstances in which he would sing to her and the type of songs. She stated that he would look into her eyes and at her as he was singing, which made her feel anxious and uncomfortable.

Pupil B also alleged that Mr Rogers would sing to her, which she stated began from the time she first started having lessons with him in Year [redacted]. Whilst she could not recall the specific songs he would sing, she could recall that they included the word 'beautiful' and that Mr Rogers would sometimes include her name in lyrics.

In oral evidence, she gave examples of this.

Witness B gave evidence that Mr Rogers accepted that he sang love songs to the pupils during the course of their interview on 16 June 2015.

The panel also noted that an extract from an investigation log provided by Wiltshire police, concerning its enquiries and a meeting with Mr Rogers, also purports to record Mr Rogers accepting that he had sang to a pupil and "probably called her beautiful."

Mr Rogers denied calling pupils "Babe" or "Baby" or "beautiful" which he stated were not the sort of words he would use. However, he accepted the fact of singing love songs. Allegation 1(b) was accordingly admitted in part. He stated he would sing to pupils as part of his teaching and denied that there was anything inappropriate in that regard.

In light of Mr Rogers' admission and having considered all of the evidence, the panel concluded that Mr Rogers did sing love songs to Pupil A and Pupil B.

On balance, given Pupil A's and Pupil B's evidence and in light of the evidence the panel heard about Mr Rogers' teaching style and character, the panel also concluded that it was more likely than not that Mr Rogers did call Pupil A and Pupil B "Babe" or "Baby" or "beautiful" at certain times.

The panel went on to consider whether, by behaving in this way, Mr Rogers had failed to maintain appropriate professional boundaries and/or appropriate professional standards.

It concluded that the National College had not proved to the requisite standard that he had. The panel noted that songs he used in his teaching would inevitably be love songs

and contain these words and it was not satisfied that simply replacing a pupil's name in this manner was objectionable per se. Similarly, he could have looked into their eyes in order to convey the emotion of a song and that was not necessarily inappropriate; it would depend on the specific circumstances.

The panel therefore found allegation 1(b) not proven.

e. Seeking their personal telephone numbers

Pupil B's evidence was that Mr Rogers requested that she give him her mobile number around Year [redacted] in the context of him purchasing new guitar strings on her behalf.

In oral evidence, she stated that she subsequently received messages from him relating to arrangements for lessons. She did not ultimately purchase new guitar strings. She stated that there was nothing improper about the messages. To the best of her recollection, she did not message Mr Rogers back. She maintained in oral evidence that she gave Mr Rogers her phone number rather than the other way around, although the panel noted that her written statement to the School was unclear on this point.

Witness B's evidence was that Mr Rogers admitted giving his telephone number to a pupil during the course of their interview on 16 June 2015, the notes for which record the context as being to get a new string for a guitar, which corroborated Pupil B's account.

The panel also noted that the extract from the investigation log provided by Wiltshire police purports to record Mr Rogers accepting that he had asked for a pupil's mobile number and that he should not have done so.

Mr Rogers denied the allegation. His position was that he gave Pupil B his phone number in order that she could contact him to remind him to get new strings for her guitar.

There was accordingly a conflict of evidence, which the panel was unable to resolve. It was not possible to determine on the basis of the evidence before it whether Mr Rogers gave his mobile number to Pupil B or the other way around. Either way, there was no evidence of anything untoward given that the only evidence of communications between them related to arrangements for lessons.

On balance, the panel therefore concluded that the National College had not proved to the requisite standard that Mr Rogers had sought Pupil A's or Pupil B's telephone numbers.

The panel therefore found allegation 1(e) not proven.

f. Making inappropriate jokes

The panel considered that there was a lack of particularisation as to what precisely was alleged as being inappropriate jokes made by Mr Rogers.

The panel considered all the evidence before it, which concerned communications, which could be said to amount to inappropriate jokes.

Pupil A alleged that, following Mr Rogers finding out that her father was from South Africa, he would mock the South African accent and make inappropriate comments.

In oral evidence, she also stated that Mr Rogers made inappropriate comments about her mother.

Pupil B alleged that Mr Rogers would make racist jokes about Muslims being terrorists. She also stated that he similarly made suggestive comments about her mother, which were said to have sometimes been made, "in a jokey way".

However, whilst there was evidence about a number of alleged inappropriate comments, which could be considered as jokes, there was a lack of detail. For example, when asked about the alleged racist jokes in oral evidence, Pupil B stated, "they were like jokes about being terrorists and due to their attire you can't really see what's going on, that sort of thing."

Mr Rogers denied this allegation. He denied making any inappropriate jokes.

Mr Rogers did accept that he had previously made jokey comments if a pupil gave him a letter along the lines of "Oh, oh more fan mail! Love Letter!". However, whilst this may have been ill-judged, the panel did not consider that it could be properly considered as inappropriate.

The panel therefore concluded that the National College had not proved to the requisite standard that Mr Rogers had made inappropriate jokes.

The panel therefore found allegation 1(f) not proven.

2. On one or more occasions you offered Pupil A and/or B some of your anti-depressant medication

Pupil A stated that Mr Rogers offered her anti-depressants on two separate occasions.

In her witness statement to the National College, she stated that when she was in Year [redacted] at the School, following Easter in 2015 Mr Rogers told her that he had left his wife and moved back in with his mother at which point he showed her his anti-depressants and told Pupil A how much they had helped him. She also stated that she witnessed Mr Rogers taking his medication during lessons and he often left it, "lying around".

In oral evidence, she stated that on one occasion, "when I wasn't feeling well in myself they were next to him on the table and he said "these help me" and pushed them towards me so I took that as if they were offering – like they were being offered to me." She indicated that a similar incident occurred subsequently. When questioned by Mr Rogers'

representative, she accepted it was possible that this could have been a suggestion that she seek medical advice rather than being an invitation to take the medication.

Pupil B's evidence was that Mr Rogers was very open about the fact that he suffered from depression and "on occasion" would offer his anti-depressants to her. She stated in her witness evidence that this happened more than once however she was less certain in her oral evidence stating that, "I think it did". The panel did not find this surprising given the passage of time.

Witness B gave evidence that Mr Rogers admitted offering pills to pupils during the course of their interview on 16 June 2015, though the notes record Mr Rogers stating that he did so "jovially" after his pills had fallen out of his bag.

The panel also noted that the extract from the police investigation log provided by Wiltshire Police also purports to record Mr Rogers accepting that he had offered anti-depressants.

Mr Rogers accepted that the pupils knew he was taking anti-depressant medication.

His evidence was that he could only recall a single occasion, which he referred to in his meeting with Witness B as noted above, when his anti-depressant prescription medication fell out of his bag and he jokingly said to a pupil, "want one?" out of embarrassment. He partly resiled from this during his oral evidence when he suggested that it may not have been anti-depressant medication but rather paracetamol. He could not remember whether Pupil A or B was the pupil in question, though the panel noted that Pupil B described a similar incident in her oral evidence.

In any event, Mr Rogers denied offering any pupil medication, in a meaningful sense, on any occasion and he denied that he had behaved inappropriately.

The panel considered that, even in the event that Pupil A and Pupil B's accounts were accepted in full, it was not satisfied that their descriptions of the incidents in question could properly be described as Mr Rogers unequivocally offering them his medication in a serious sense. Whilst they could certainly reasonably have interpreted his actions in that way, their accounts were ambiguous as to whether Mr Rogers was in fact offering them his medication with a view to it being taken.

On balance and whilst the panel had concerns as to the nature of these incidents involving Mr Roger's medication, the panel therefore concluded that the National College had not proven to the requisite standard that Mr Rogers had in fact offered Pupil A and/or Pupil B anti-depressant medication.

The panel therefore found allegation 2 not proven.

3. In carrying out the actions described at 1.a. – 1.e. above your actions were sexually motivated

In light of the panel's findings in relation to allegations 1(a)(i), (iii), (iv), (v), (vi) and (vii), 1(c) and 1(d), it went on to consider whether Mr Rogers' actions were sexually motivated.

The panel was invited by the presenting officer to conclude that this was the appropriate inference to draw from all the circumstances. It was suggested that, with particular reference to allegation 1(a), a male teacher would not have such conversations with female teenage pupils unless there was a degree of sexual motivation or sexual titillation involved and his conduct was described as, "classic grooming behaviour".

Mr Rogers robustly denied this allegation. He had previously stated that he was not sexually attracted to Pupil A or Pupil B.

The panel considered that certain aspects of the evidence were troubling.

In particular, it considered that Mr Rogers' conduct in discussing matters of such an overtly sexual nature was highly inappropriate. These were young, vulnerable girls and Mr Rogers' conduct had fallen very far short of the standard expected.

In addition, there was a physical aspect to his behaviour in that he had encouraged them to feel his biceps and stomach muscles, which was also a matter of concern.

The panel heard that the pupils felt uncomfortable at times, though not to the extent that they saw fit to report Mr Rogers' behaviour to their parents or to the School at an earlier point.

The panel also had regard to the circumstances of the lessons, which were routinely on a one-to-one basis.

However, the panel noted that Mr Rogers had taught Pupil A and Pupil B over a long period of time.

In that period, there was no suggestion that Mr Rogers had ever attempted to make contact with either pupil outside of the classroom or taken any step, which could be perceived as one seeking to encourage an improper relationship.

To the contrary, the panel heard that there were a limited number of text communications between Pupil B and Mr Rogers, which were strictly limited to teaching matters and went no further. There was also no suggestion of covert behaviour on the part of Mr Rogers.

Mr Rogers had clearly lost sight of his professional obligations and allowed professional boundaries to become blurred. However, the panel did not consider that there was sufficient evidence to support the contention that Mr Rogers' conduct could appropriately be described as being sexually motivated.

His conduct was certainly foolish and ill-judged and he had overstepped the mark by a significant degree. To some extent, the panel considered his conduct to be manipulative in that there may have been an element of him attempting to impress Pupil A and Pupil B, which ultimately led to them feeling uncomfortable. He had been described; as a "cool" individual and was a musician who played in bands. He was also a peripatetic teacher who may not have had as good an understanding as he ought to have done in relation to acceptable standards of behaviour.

Despite its concerns, the panel did not consider that it could reasonably be inferred that Mr Rogers had an improper, sexual intent having considered all of the evidence before it.

The panel therefore concluded that the National College had not proven to the requisite standard that Mr Rogers' actions were sexually motivated.

In arriving at this conclusion, the panel took into account the fact Mr Rogers is understood to be a person of previous good character. The panel also noted that the LADO and criminal procedures were ultimately not pursued.

On balance, the panel accordingly did not consider that the conduct, could reasonably be interpreted as evidence that Mr Rogers was sexually motivated toward either Pupil A or Pupil B. It was not satisfied that Mr Rogers' conduct in relation to the facts found proved was for the purpose of sexual gratification.

On that basis and for the above reasons the panel finds allegation 3 not proven.

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

Having found allegations 1(a)(i), (iii), (iv), (v), (vi) and (vii), 1(c), 1(d), 1(g) and 1(h) proven, the panel went 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 had regard to the document Teacher misconduct: The prohibition of teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Rogers in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Rogers is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;

- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- showing tolerance of and respect for the rights of others;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Rogers' conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice. It found that none of these offences were relevant.

The panel was satisfied that the conduct of Mr Rogers in relation to the facts found proven amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel considered that Mr Rogers' actions amounted to a persistent failure to maintain appropriate professional boundaries and standards and constituted misconduct of a serious nature. Mr Rogers held a position of trust as a teacher and it was incumbent on him to set an example at all times, which he had failed to do. The panel was not considering an isolated incident but rather failings over a long period of time evidencing poor judgment on his part.

Accordingly, the panel was satisfied that Mr Rogers was guilty of unacceptable professional conduct.

In relation to whether Mr Rogers' conduct had brought the profession into disrepute, the panel took 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 also took account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

In summary, the panel considered that the findings of misconduct in this case were serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The panel therefore concluded that Mr Rogers' actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a)(i), (iii), (iv), (v), (vi) and (vii), 1(c), 1(d), 1(g) and 1(h) proven, the panel accordingly further found that Mr Rogers' 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 was 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 considered whether it was an appropriate and proportionate measure, and whether it was 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 considered the particular public interest considerations set out in the Advice and having done so 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.

It concluded that there is a strong public interest consideration in respect of the protection of pupils on the basis that Mr Rogers' conduct as found proven amounted to a serious and persistent failure to maintain appropriate professional standards and boundaries in his dealings with Pupil A and Pupil B.

Similarly, given the seriousness of the misconduct identified, the panel considered that public confidence in the profession could be seriously weakened, if conduct such as that found against Mr Rogers were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also 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 Rogers 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 Rogers.

In carrying out the balancing exercise, the panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Rogers.

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; and
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils.

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.

In light of the panel's findings, it considered that the following mitigating factors were present:

- Mr Rogers had a previous good history. There was no evidence that he had been subject to any previous regulatory or disciplinary proceedings. He had a long teaching career and there was no evidence of any prior complaints in relation to his conduct.
- Evidence of Mr Rogers' teaching practice was included within the papers and considered by the panel. The references were extremely positive both as regards the quality of his teaching and his character. He was described as an "inspirational teacher".
- He had participated in these proceedings and attended the hearing to give evidence in person.
- Mr Rogers gave evidence as to the difficulties in his personal life at the relevant time. He was suffering from depression and his relationship with his wife had deteriorated which led to their separation and divorce.
- It was submitted on Mr Rogers' behalf that, as a peripatetic teacher, he had not received as much training as a qualified teacher, although there was evidence that he had at least attended safeguarding at the School.

In terms of aggravating factors, the panel considered that:

- Mr Rogers' actions were deliberate. He was not acting under duress.
- Mr Rogers had not demonstrated insight. Whilst he had made very limited admissions in relation to certain aspects of the allegations against him, and suggested that in relation to certain matters he would behave differently with the

benefit of hindsight, he had denied all of the allegations and had demonstrated no insight into the impact of his behaviour on Pupil A and Pupil B.

- Mr Rogers had demonstrated no remorse.
- There had been clear breaches of the Teachers' Standards.
- The conduct the panel had found proven persisted over a significant period of time.
- There was an impact on the pupils. There was evidence that they were made to feel uncomfortable at the time and it was also stated that there was a longer term impact in relation to one of the pupils.
- Mr Rogers had made racist remarks to pupils.

Having carefully weighed all of these considerations, the panel was of the view that prohibition is both proportionate and appropriate.

In arriving at this conclusion the panel took into account the positive evidence of Mr Rogers' teaching practice and carefully considered whether there may be a public interest in Mr Rogers being able to continue in practice.

However, the panel decided that the wider public interest considerations outweigh the interests of Mr Rogers in this case.

The fact that the conduct the panel found proven involved him having overtly sexual conversations with young female pupils and making racist comments was a significant factor in the panel forming the view that prohibition was necessary, proportionate and appropriate.

As noted above, his conduct had an impact on the pupils and he had demonstrated no insight or remorse. In those circumstances, the panel could not be satisfied that there was no risk of repetition.

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" advises that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

"The Advice" indicates that there are behaviours that, if proven, would militate against a review period being recommended.

None of these behaviours were present in this case. In addition, the panel considered that, whilst the conduct found proven was extremely serious, Mr Rogers was not beyond remediation.

The panel accordingly felt that its findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provision for a review period of 3 years after which Mr Rogers may apply for the prohibition order to be set aside. The panel concluded that 3 years was appropriate and would allow Mr Rogers an opportunity to reflect on his conduct and demonstrate insight into his failings and that he had learnt from his mistakes.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of sanction and three year review period.

In considering this case, I have also given very careful attention to the advice that is published by the Secretary of State concerning the prohibition of teachers.

In this case, the panel has found allegations 1(a)(i), (iii), (iv), (v), (vi) and (vii), 1(c), 1(d), 1(g) and 1(h) proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Where the panel did not find facts proven I have put these matters from my mind. The panel has made a recommendation to the Secretary of State that Mr Rogers should be the subject of a prohibition order, with a review period of three years.

In particular the panel has found that Mr Rogers is in breach of the following standards:

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

The panel finds that the conduct of Mr Rogers found proven fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of persistent failure to maintain appropriate professional boundaries and standards.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether or not a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Rogers, and the impact that will have on him, is proportionate. In this case I have considered the extent to which a prohibition order would protect children. The panel has observed Mr Rogers' conduct as found proven, "amounted to a serious and persistent failure to maintain appropriate professional standards and boundaries in his dealings with Pupil A and Pupil B." A prohibition order would therefore prevent such a risk from being present. I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "Mr Rogers had not demonstrated insight. Whilst he had made very limited admissions in relation to certain aspects of the allegations against him, and suggested that in relation to certain matters he would behave differently with the benefit of hindsight, he had denied all of the allegations and had demonstrated no insight into the impact of his behaviour on Pupil A and Pupil B." The panel has also commented that Mr Rogers demonstrated "no remorse". In my judgement the lack of insight and remorse means that there is some risk of the repetition of this behaviour and this risks the safety of future pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "public confidence in the profession could be seriously weakened, if conduct such as that found against Mr Rogers were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of persistent failure to maintain appropriate professional boundaries and standards in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that failure to impose a prohibition order might be regarded by the public as a failure to uphold those high standards. In weighing these considerations I have had

to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Rogers himself. The panel note that references for Mr Rogers were, “extremely positive both as regards the quality of his teaching and his character. He was described as an “inspirational teacher”.

A prohibition order would prevent Mr Rogers from continuing in the teaching profession. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has said Mr Rogers’, “had demonstrated no insight or remorse”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Rogers has made to the profession. In my view it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision that is not backed up by full remorse or insight does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the aims which a prohibition order is intended to achieve.

I have gone on to consider the matter of a review period. In this case the panel has recommended a 3 year review period.

I have considered the panel’s comments “The panel concluded that 3 years was appropriate and would allow Mr Rogers an opportunity to reflect on his conduct and demonstrate insight into his failings and that he had learnt from his mistakes.”

The panel has also considered that, “whilst the conduct found proven was extremely serious, Mr Rogers was not beyond remediation.”

I have considered whether a 3 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are two factors that in my view mean that a two year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the persistent nature of inappropriate behaviour and the lack of either insight or remorse.

I consider therefore that a three year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Guy Rogers 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 10 January 2021, 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 Rogers remains prohibited from teaching indefinitely.

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

Mr Rogers 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 'Dawn Dandy', written in a cursive style.

Decision maker: Dawn Dandy

Date: 29 December 2017

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