



National College for  
Teaching & Leadership

# **Mr Nathan Waring: Professional conduct panel outcome**

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

**September 2017**

## Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	5
D. Summary of evidence	8
Documents	8
Witnesses	9
E. Decision and reasons	9
Panel's recommendation to the Secretary of State	18
Decision and reasons on behalf of the Secretary of State	21

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

**Teacher:** Mr Nathan Waring

**Teacher ref number:** 0420814

**Teacher date of birth:** 20 May 1980

**NCTL case reference:** 015295

**Date of determination:** 20 September 2017

**Former employer:** St Bede's Prep School, Eastbourne (the "School"), Gresham's School, Norfolk ("Gresham's school")

### **A. Introduction**

A professional conduct panel ("the panel") of the National College for Teaching and Leadership ("the National College") convened on 18 to 20 September at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Nathan Waring.

The panel members were Ms Gail Goodman (teacher panellist), Mr Peter Cooper (teacher panellist) and Mr John Armstrong (lay panellist - in the chair).

The legal adviser to the panel was Mrs Natascha Gaut of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the National College was Ms Louisa Atkin of Browne Jacobson LLP solicitors.

Mr Nathan Waring was not present and was not represented.

The hearing took place in public and was recorded.

## B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 13 July 2017.

It was alleged that Mr Waring was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or having been convicted of a relevant offence, in that:

1. Whilst employed at St Bede's Prep School between 2004 and 2007, you developed an inappropriate relationship with Pupil A, including by:
  - a. exchanging text messages with her on more than one occasion;
  - b. exchanging messages with her via email and 'Meebo' on more than one occasion;
  - c. exchanging messages with her of a sexual nature;
  - d. attending a concert together outside of school on at least one occasion;
  - e. giving her shoulder massages on more than one occasion;
  - f. kissing her;
  - g. touching her, including under her clothes over her underwear;
2. Your conduct as may be found proven at allegations 1.c., 1.e., 1.f. and 1.g. was conduct of a sexual nature and / or sexually motivated;
3. Whilst employed at Gresham's School as Director of Music between 2008 and 2015 you:
  - a. contravened a reasonable management instruction given to you in writing in or around May 2009 by exchanging text messages in 2011, and again in 2015, with Pupil B whilst she was a pupil at Gresham's School;
  - b. failed to maintain professional boundaries in relation to Pupil B in that you engaged in inappropriate and / or flirtatious behaviour towards her, including on the Britten Music Course in July 2015;
  - c. provided false and / or misleading information to one or more of your colleagues as regards your absence from the School;
    - i. on 17 September 2015, in that you informed your colleagues that you needed to leave the school during the school day to pick up your dry cleaning at a time when Pupil B had e-mailed regarding meeting with you in town on that day and at that time;

- ii. on 23 September 2015, in that you told one or more colleagues, including the headteacher, that you were attending and / or had attended an MMA meeting in London, when in fact no such meeting took place on that day;
- d. in respect of your conduct at 3.c. above you acted dishonestly, in that you deliberately provided false and / or misleading information as regards your absence from the school.

The Panel will also hear an allegation that you have been convicted, at any time, of a relevant criminal offence, in that;

- 4. On or around 7 July 2015 you were convicted at Norfolk Magistrates' Court of the offence of drink driving, contrary to section 5(1)(a) of the Road Traffic Act 1988.

In advance of the hearing, Mr Waring did not respond to the allegations and therefore the allegations have been taken to have not been admitted.

## **C. Preliminary applications**

The panel considered whether this hearing should continue in the absence of Mr Waring.

The panel was satisfied that the National College has complied with the service requirements of regulation 19.a. to 19.c. of the Teacher's Disciplinary (England) Regulations 2012 (the "regulations"). The panel was also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Teacher misconduct - Disciplinary procedures for the teaching profession ("the Procedures").

The panel determined to exercise its discretion under paragraph 4.28 of the Procedures to proceed with the hearing in the absence of the teacher.

In making its decision, the panel notes that the teacher may waive the right to participate in the hearing. The panel understood that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution and that its discretion is a severely constrained one.

The panel has taken account of the various factors drawn to its attention from the case of *R V Jones* [2003] 1 AC1. The teacher is not present, the panel therefore considers that Mr Waring has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place. The panel has had regard to the requirement that it be only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. The panel considers that Mr Waring has plainly waived his right to appear.

There is no indication that an adjournment would result in Mr Waring attending the hearing. The panel has taken into account the fact that the presenting officer made

submissions to the effect that she does not feel that an adjournment would result in Mr Waring attending at a later date as he has stated on multiple occasions that he would not attend.

The panel has also had regard to the extent of the disadvantage to Mr Waring in not attending, and will be proceeding with extreme caution. The panel has noted that all but one of the witnesses relied upon are to be called to give evidence and the panel can test that evidence in questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel has not identified any significant gaps in the documentary evidence provided to it and should such gaps arise during the course of the hearing, the panel may take such gaps into consideration in considering whether the hearing should be adjourned for such documents to become available and in considering whether the presenting officer has discharged the burden of proof. The panel is also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel also notes that there are a number of witnesses who will be present at the hearing, who are prepared to give evidence, and that it would be inconvenient and potentially distressing for them to return again. With this in mind the panel also specifically took into account the evidence which was to be provided by Pupil A and the distance in which she travelled to be at the hearing as they were informed that she currently resides outside of the United Kingdom.

The panel has had regard to the seriousness of this case, and the potential consequences for the teacher and has accepted that fairness to the teacher is of prime importance. However, it considers that in light of Mr Waring's waiver of his right to appear; by taking such measures referred to above to address that unfairness in so far as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today. The panel considers that it took all reasonable steps open to it to confirm that Mr Waring was not legally represented.

The panel considered an application made by the presenting officer to amend the Notice of Proceedings by amending Allegation 2. The presenting officer requested that this be changed to: "your conduct as may be found at allegations 1.c., 1.e., 1.f. and 1.g. was conduct of a sexual nature and/or sexually motivated". The panel was satisfied that Mr Waring had reviewed the allegations and confirmed that he had no objection to this amendment. The panel considered that the amendment proposed being a correction of a typographical error does not change the nature, scope or seriousness of the allegations. There is no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher. The panel therefore decided to amend the allegation as proposed.

It also came to the attention of the panel, prior to making a decision on findings, that there was a further typographical error in the allegations. Allegation 3.d. currently reads “in respect of your conduct at 2.c.” and this should read “in respect of your conduct at 3.c.”. The panel again considered that the amendment proposed being a correction of a typographical error does not change the nature, scope or seriousness of the allegations. There is no prospect of the teacher’s case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher. The panel therefore decided to amend the allegation as proposed.

The panel also considered an application made by the presenting officer on behalf of Mr Waring that the hearing should be held in private. The presenting officer explained that this request had been made so as to protect Mr Waring’s children. The panel decided that the public interest required that the hearing should be held in public. The panel also did not want to create a precedent where teachers with children should be allowed a private hearing whereas teachers without would have no argument to ask for a private hearing.

The panel considered an application to admit additional documentation from the presenting officer namely the Notice of Referral form dated 10 November 2016 and correspondence between the presenting officer and Mr Waring from 28 March 2017 through to 14 September 2017. These documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel took into account the representations from the presenting officer that these documents evidenced the clear communication between the presenting officer and Mr Waring regarding the arrangement of the hearing and that he had clearly stated that he did not want to attend the hearing. The panel exercised caution in exercising this discretion given that it has determined to proceed with this hearing in the absence of the teacher.

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case. The panel was satisfied that the documents were relevant to the proceedings and these documents were added to the bundle and paginated as pages 323 to 336.

The presenting officer also applied for documentation to be submitted on behalf of Mr Waring namely; the response to the Notice of Proceedings form dated 15 September 2017 and two character references. The presenting officer made no representations to object to these documents being admitted into evidence and therefore the panel was satisfied that the documents were relevant to the proceedings and these documents were added to the original bundle and numbered 337 to 345.

The presenting officer also applied for the signed statements of Witness A and Witness B to be added to the bundle. The presenting officer explained that an unsigned statement for Witness A had already been admitted as evidence and that the statement of Witness

B had been in draft format before and that she was waiting on an agreed copy before it was admitted into evidence. The presenting officer also confirmed that the finalised statements had been sent to Mr Waring and no objection had been raised to these being admitted as evidence. Finally, the panel understood that both witnesses would be giving live evidence and therefore their evidence could be tested. These documents were added and numbered 346 to 351 and 352 to 354 respectively.

The presenting officer also made an application that Witness B's evidence be heard via video link, advising the panel of the detail of this witness's specific current personal circumstances which would have made her travelling to the hearing a significant challenge. The panel balanced its obligation to pay due regard to the needs of a witness with its obligation to ensure that Mr Waring was not put at an unfair disadvantage, and in doing so, the panel reminded itself of its duty to investigate the allegations in a manner, so far as is possible, consistent with fairness to Mr Waring. The panel also took into account that there may be subtleties of tone or body language that might be lost via the medium of the video link. The panel decided that Witness B could give her evidence via video link.

Lastly, the panel brought it to the presenting officer's attention that the diary entries exhibited as part of Pupil A's statement did not include the time period of May 2006 and this was of importance due to the fact that these specific time period had been mentioned within Pupil A's evidence. This evidence was subsequently admitted and added as a separate bundle, Bundle A.

## **D. Summary of evidence**

### **Documents**

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Anonymised pupil list and Chronology – pages 2 to 5

Section 2: Notice of Proceedings and response – pages 7 to 21

Section 3: NCTL witness statements – pages 23 to 43

Section 4: NCTL documents – pages 45 to 314

Section 5: Teacher documents – pages 316 to 322

In addition, and as explained above, the panel heard an application to admit additional documentation and agreed to accept the following: Notice of Referral form dated 10 November 2016, correspondence between the presenting officer and Mr Waring from 28 March 2017 through to 14 September 2017. These documents were added to the bundle and paginated as pages 323 to 336.



The presenting officer also applied for documentation to be submitted on behalf of Mr Waring namely; the response to the Notice of Proceedings form dated 15 September 2017 and two character references. These documents were added to the original bundle and numbered 337 to 345.

The presenting officer also applied for the signed statements of Witness A and Witness B to be added to the bundle and these were numbered 346-351 and 352 to 354 respectively.

Lastly, the panel brought it to the presenting officer's attention that the diary entries exhibited as part of Pupil A's statement did not include the time period of May 2006 and this was of importance due to the fact that this specific time period had been mentioned within Pupil A's evidence. This evidence was subsequently admitted and added as a separate bundle, Bundle A.

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

## **Witnesses**

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

- Pupil A
- Witness A, headteacher of the prep school, Gresham's school
- Witness B, teacher, Gresham's school
- Witness C, music administrator, Gresham's school.

The presenting officer had originally called Individual A to give evidence however, on reflection felt her evidence should be taken as written. The presenting officer therefore de-warned Individual A but put her on notice that the panel may after reading her evidence have some questions for her.

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

We have carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

Mr Waring commenced employment at St Bede's Prep School ("the School") in September 2004. During his time at the School it was alleged that an inappropriate

relationship developed between Mr Waring and Pupil A. More specifically; in January 2006 Mr Waring and Pupil A began to spend more time together and started to exchange messages via email and text, on 22 May 2006 Mr Waring and Pupil A allegedly kissed, from May 2006 onwards Pupil A and Mr Waring's physical relationship developed and in August 2006 Mr Waring and Pupil A attended a concert together.

In September 2006 Pupil A left the School and commenced the next stage of her education at Eastbourne College. In September 2007, Mr Waring continued to communicate with Pupil A and in December 2007 Pupil A and Mr Waring met at a carol service. In late January 2008 Pupil A disclosed to her tutor, Individual A, that something had happened between herself and a teacher.

In January 2008, Mr Waring commenced employment at Gresham's school. In February 2008 Mr Waring took a period of leave whilst investigations into Pupil A's disclosure were undertaken. In May 2009 Mr Waring was provided with a written set of rules and guidelines by Witness A, the headteacher of Gresham's school, regarding his behaviour with students. This instruction was allegedly ignored by Mr Waring in 2011 and again in 2015 with a pupil, Pupil B, whilst this pupil was attending Gresham's school.

In June 2015 Mr Waring and other members of staff of Gresham school attended Pupil B's joint birthday party. On 21 June 2015, Mr Waring was found driving his vehicle whilst under the influence of alcohol. On 7 July 2015 Mr Waring was convicted of the offence of drink driving at Norfolk Magistrates' Court.

In July 2015 Mr Waring was involved in the Britten Music Course, Pupil B attended as a residential helper. It is alleged that Mr Waring failed to maintain professional boundaries in relation to Pupil B as he engaged in inappropriate/flirtatious behaviour, including on the Britten Music Course.

On 17 and 23 September 2015 it is alleged that Mr Waring absented himself from Gresham's school in order to meet Pupil B. On the 17 September 2015, Mr Waring informed Witness B that he needed to leave Gresham's school during the school day to pick up dry cleaning. On the 23 September Mr Waring informed both Witness A and other colleagues from Gresham's school that he needed to be absent due to the fact that he had been asked to attend an MMA meeting, it later transpired that no such meeting was held on that date.

Mr Waring resigned from his position at Gresham's school on 9 October 2015.

## **Findings of fact**

Our findings of fact are as follows:

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

- 1. Whilst employed at St Bede's Prep School between 2004 and 2007, you developed an inappropriate relationship with Pupil A, including by:**
  - a. exchanging text messages with her on more than one occasion;**
  - b. exchanging messages with her via email and 'Meebo' on more than one occasion;**
  - c. exchanging messages with her of a sexual nature;**
  - d. attending a concert together outside of school on at least one occasion;**
  - e. giving her shoulder massages on more than one occasion;**
  - f. kissing her;**
  - g. touching her, including under her clothes over her underwear;**

With regard to this allegation the panel heard live evidence from Pupil A, and referred to Pupil A's statement, located on pages 23 to 28 of the bundle and Pupil A's diary entries, which could be found on pages 45 to 133 of the bundle and within Bundle A. The panel felt that Pupil A was a credible and reliable witness.

The panel also paid particular attention to the email dated 5 September 2007, page 134 of the bundle, sent by Mr Waring to Pupil A. The panel concluded that this was confirmation that there was an inappropriate relationship and corroborated the account provided by Pupil A.

The panel also reviewed the diary entries in detail. The presenting officer also left the original diaries for the panel to review. The panel felt that the diary was a contemporaneous account of events in Pupil A's life and was entirely consistent with a diary for a girl of that age. The panel also noted that the diary captured the highs and lows of the relationship with Mr Waring and detailed when Pupil A felt rejected. The panel concluded that it was clear that the diary entries were a true representation of Pupil A's life as if this had been a fantasy/fabricated version of events then the panel felt Mr Waring would have featured more heavily and Pupil A would not have discussed the rejection that she received from Mr Waring, instead she may have preferred to present a 'fairy-tale' version of events. The panel was also mindful of the fact that later references to Mr Waring within Pupil A's diary became coded to enable Pupil A to hide this relationship had her diaries ever been read. Had Pupil A fabricated this story then the panel felt that these references would have been more obvious so that the reader would understand who she was referring to.

The panel considered all of the evidence and, on the balance of probabilities, decided that this allegation in its entirety had been proven.

**2. Your conduct as may be found proven at allegations 1.c.,1.e., 1.f. and 1.g. was conduct of a sexual nature and / or sexually motivated;**

The panel took into account the evidence as detailed above and considered that it was more likely than not that the activity detailed at allegation 1.c., 1.e., 1.f. and 1.g. was sexually motivated. The panel therefore found this allegation proven.

**3. Whilst employed at Gresham's School as Director of Music between 2008 and 2015 you:**

**a. contravened a reasonable management instruction given to you in writing in or around May 2009 by exchanging text messages in 2011, and again in 2015, with Pupil B whilst she was a pupil at Gresham's School;**

The panel looked at these two instances separately and first looked at the evidence concerning the text messages in 2011. The panel took into account the evidence found at pages 148 to 150, a letter, dated 8 May 2009, from Witness A to Mr Waring. This letter detailed very clear and reasonable management instructions about the way Mr Waring should conduct himself. Witness A made it apparent that these guidelines were important to safeguarding Mr Waring's interests and safeguarding the interests of students in which he came into contact with. Within these guidelines Mr Waring was told that he "must not communicate with pupils by text, email or other electronic means".

The panel also reviewed the document found at page 203 of the bundle, which is a chronology of child protection concerns relating to Mr Waring, drafted by Witness A, dated 30 June 2015. The panel paid specific attention to the penultimate paragraph where Witness A refers to the fact that he had become aware that Mr Waring had been communicating with pupils at Gresham's school by text in November 2011. The specific formal written warning that is mentioned by Witness A can be found on pages 151 and 152 of the bundle.

With regards to the text messages sent in 2015, the panel viewed the evidence on page 153 of the bundle however, the panel reviewed the wording of the allegation and highlighted the fact that the allegation expressly states "...with Pupil B whilst she was a pupil at Gresham's School". The panel understands that Pupil B was no longer a pupil of Gresham's school at the time this message was sent and therefore does not find that this piece of evidence proves the allegation. However, after hearing live evidence from Witness B and Witness C the panel felt that it was more likely than not that texts had been sent to Pupil B whilst she was still a pupil in 2015. The panel also took into account the document found at page 321 of the bundle, a letter from Mr Waring to Browne Jacobson LLP on 14 July 2016. Within this letter Mr Waring details that he was texting pupil B in August to organise rehearsals. The panel considered that Pupil B was still a student at that time and would have been until 31 August 2015.

The panel considered all of the evidence and found the facts of the allegation proven for the text messages sent in 2011 and, on the balance of probabilities, the panel felt that it would be more likely than not that the text communication in 2015 would have happened.

Therefore, the allegation has been found proven in its entirety.

**b. failed to maintain professional boundaries in relation to Pupil B in that you engaged in inappropriate and / or flirtatious behaviour towards her, including on the Britten Music Course in July 2015;**

The panel considered both the live evidence of Witness C and Witness B and reviewed their statements found at pages 37 to 40 and 352 to 354 of the bundle respectively. Witness C's evidence in particular was of importance to this allegation as she detailed the flirtatious behavior that she witnessed at the Britten Music Course. The panel also took on board that Witness C was so worried about the relationship that Mr Waring had with Pupil B that when they had decided to stay over the night at the boarding house, after a meal to celebrate the end of the Britten Course, she stayed in a room with Pupil B. Witness C explained that the situation with Mr Waring had made her feel uncomfortable and she felt "the need to act as a chaperone".

The panel considered all of the evidence and found the facts of the allegation proven.

**c. provided false and / or misleading information to one or more of your colleagues as regards your absence from the School;**

**i. on 17 September 2015, in that you informed your colleagues that you needed to leave the school during the school day to pick up your dry cleaning at a time when Pupil B had e-mailed regarding meeting with you in town on that day and at that time;**

The panel relied on the evidence given by Witness C, Witness B and Witness A and felt that after reviewing their witness statements and after hearing oral testimony that there was an overwhelming amount of evidence that helped prove these facts.

The oral evidence given by Witness B was where the panel first learnt that Mr Waring would be absent from class as he needed to pick up his dry cleaning. Witness C also highlighted to the panel that the excuse was odd given that he had a wife that worked part time that could pick this up and would have therefore prevented him having to leave the school during the school day. Witness C also stated that she thought it was no coincidence that Pupil B worked in a shop in the town.

The panel also reviewed the email from Pupil B to Mr Waring, found on page 153 of the bundle, which confirms that Pupil B had arranged to meet with Mr Waring on the 17 September.

The panel therefore found the allegation proven.

- ii. on 23 September 2015, in that you told one or more colleagues, including the headteacher, that you were attending and / or had attended an MMA meeting in London, when in fact no such meeting took place on that day;**

In considering this allegation, the panel reviewed the email, dated 30 September, on page 154 of the bundle. This email was from the president of the MMA to Mr Waring. This email stated that an MMA meeting took place on 29 September and Mr Waring had not been present.

The panel also noted the oral evidence from Witness C. Witness C stated that she had understood that Pupil B would be in London as she had bumped into her in town and she had relayed that she would be undertaking singing lessons in London. Witness C explained that when Mr Waring had said that he was going to London on 23 September for an MMA meeting she knew that Pupil B would also be in London that day and this gave her cause for concern. Witness C confirmed that she checked with the MMA to see if there was a meeting on this date and found out there wasn't. It was at this point she raised her concerns with Witness A.

The panel also took into consideration the evidence of Witness A, who confirmed that Mr Waring had told him that he was going to an MMA meeting on 23 September and that he had granted him permission to leave school for this purpose.

The panel considered all of the evidence and, on the balance of probabilities, decided that this allegation had been proven.

- d. in respect of your conduct at 3.c. above you acted dishonestly, in that you deliberately provided false and / or misleading information as regards your absence from the school.**

The panel went on to consider whether Mr Waring's actions were dishonest. The panel received advice that there was a further requirement to consider two questions when deciding whether Mr Waring's actions were dishonest.

The panel was advised that the first limb of the traditional test to which the panels are referred is "whether the panel is satisfied on the balance of probabilities that Mr Waring's actions would be regarded as dishonest according to the standards of the ordinary and reasonable people".

The panel was also informed of judicial comment in a case which was of persuasive authority, which stated that the question the panel should ask itself was whether, according to the standard of the reasonable and honest professional what Mr Waring had said was dishonest. If so, is the panel satisfied that Mr Waring himself must have realised

that his actions would have been regarded as dishonest by those standards? The panel accepted that only if the answer to both of these questions was yes, can the allegation of dishonesty be established.

On the objective test, the panel was satisfied that both reasonable and honest people and reasonable and honest teachers would consider it dishonest for a teacher to deliberately provide false or misleading information with regards to their absence from school.

The panel went onto consider whether Mr Waring would have known that what he was doing was, by those standards, dishonest. It considered that he must have known that his actions on both occasions would offend the normally accepted standard of honest conduct. The panel considered the evidence provided by Witness C and Witness B and confirmed that the email, page 153 of the bundle, provided evidence that Mr Waring had been dishonest and had actively provided false information regarding his whereabouts. The panel also considered the evidence provided by Witness A in relation to the second occurrence of absence. The panel highlighted that Witness A asked Mr Waring, around the time Mr Waring was being suspended, whether he had in fact attended the MMA meeting on that date and Mr Waring continued to state that he had. Again, the panel concluded that Mr Waring had been dishonest as he had again provided false information about his whereabouts.

The panel therefore found this allegation proven.

**4. On or around 7 July 2015 you were convicted at Norfolk Magistrates' Court of the offence of drink driving, contrary to section 5(1)(a) of the Road Traffic Act 1988.**

The panel found that this allegation is proven on the facts alone and looked specifically at the memorandum of conviction at pages 249 to 250 of the bundle.

**Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence**

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

In doing so, the panel has had regard to the document Teacher misconduct: The prohibition of teachers, which the panel refers to as "the Advice".

The panel is satisfied that the conduct of Mr Waring in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Waring 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, and maintain high standards.
- 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 Waring fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Waring's conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel has found that the offence of serious driving offences, particularly those involving alcohol or drugs is relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

In respect of Mr Waring's relationship with both Pupil A and Pupil B, the panel considered that this was borne out of the position of trust that Mr Waring was in. The panel noted that the relationships with both Pupil A and Pupil B extended past the point at which the pupils were students at the school and Gresham's school but it was clear to the panel that these relationships were founded when both Pupil A and Pupil B were students.

The panel also considered that, despite the fact that Mr Waring had received warnings about his behaviour on multiple occasions and the fact that he had previously been subject to an investigation into the disclosures made by Pupil A, this pattern of behaviour continued. The panel also took into account that Pupil A would have only been 12 years old when the relationship first began and would have been 13 years old at the height of the relationship. The panel confirmed that Mr Waring's behaviour went as far as being deep-seated and harmful. The panel considered Mr Waring's dishonesty as an aggravating factor in seeking to conceal his relationship with Pupil B. The panel concluded that Mr Waring had failed to observe proper boundaries appropriate to a teacher's professional position and therefore his actions, with regards to allegations 1, 2 and 3, amounted to unacceptable professional conduct.



With regards to allegation 4, the panel took into consideration the fact that a lift had been arranged for Mr Waring and despite this and being returned back to Gresham's school safely, he decided of his own accord to drive his car back to Pupil B's party. The panel commented that Mr Waring had made the active decision to return to the party and drive his car. The panel felt that this demonstrated a cavalier attitude and put the lives of himself and members of the public at potential risk and therefore amounted to unacceptable professional conduct.

Accordingly, the panel was satisfied that Mr Waring 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 the individual's status as a teacher, potentially damaging the public perception.

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

The panel is satisfied that the conduct of Mr Waring in relation to the facts it has found proved, involved breaches of the Teachers' Standards. The panel considers that by reference to Part Two, Mr Waring is in breach of the following standard:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school.

The panel noted that the behaviour involved in committing the offence could have had an impact on the safety of members of the public.

The panel has also taken account of how the teaching profession is viewed by others. The panel considered that Mr Waring's behaviour in committing the offence could affect the public confidence in the teaching profession given the influence that teachers may have on pupils, parents and others in the community.

The panel has noted that Mr Waring's behaviour had led to him being disqualified from holding or obtaining a driving licence for 18 months which is indicative of the seriousness of the offence committed.

This is a case involving an offence involving serious driving offences, particularly those involving alcohol or drugs which the Advice states is likely to be considered a relevant offence.

The panel has taken into account that Mr Waring provided information that he was under a considerable of pressure, pages 317 to 322 of the bundle, both in his professional and personal life. With regards to the pressure that Mr Waring was under with regards to his professional life the panel explored this line of evidence with Witness A and Witness C. Witness A and Witness C both stated that Mr Waring liked to be busy but also highlighted that Gresham's school had an open and transparent support system and that if there had been a problem it could have been easily raised. Both Witness A and Witness C confirmed that Mr Waring had never raised workload related issues with them.

The panel also noted the two character references provided on behalf of Mr Waring by Individual B and Individual C, pages 344 and 345 of the bundle, which attests to Mr Waring's exemplary record as a teacher.

Although the panel finds the evidence of Mr Waring's teaching proficiency to be of note, the panel has found the seriousness of the offending behaviour that led to the conviction is relevant to the teacher's ongoing suitability to teach. The panel considers that a finding that this conviction is a relevant offence is necessary to reaffirm clear standards of conduct so as to maintain public confidence in the teaching profession.

## **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 and a conviction of a relevant offence, 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 a 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 protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Waring which involved inappropriate relationships with students, protection of pupils is an important factor, given the boundary issues identified. There is a strong public interest consideration in respect of the protection of pupils given the serious findings of inappropriate relationships with children. The panel found convincing evidence that Mr Waring abused his position of trust with vulnerable pupils across a wide range of ages.

Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Waring 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 Waring 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 Waring.

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 Waring. 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;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up;
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

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. As stated previously, the panel was made aware that Mr Waring was under a great deal of professional and personal stress however, when this evidence was tested the panel concluded that this did not seem entirely plausible. There was also no evidence to suggest that Mr Waring's actions were not deliberate or that Mr Waring was acting under duress.

The panel reflected on the references provided by Mr Waring, which can be found at pages 344 and 345 of the bundle, which demonstrate that Mr Waring had a clear commitment to teaching excellence and supporting students.

The panel also had regard to the aggravating factors in this case and note specifically that: the behaviours were repeated despite warnings; the behaviours were sustained over a long period of time and were not one off aberrations and lastly the unique conditions around teaching music which involve significant one to one contact should make all music teachers particularly conscious of the need to maintain boundaries. The panel also noted that no evidence was proffered by Mr Waring which provided an alternative viewpoint to the allegations submitted and showed no signs of remorse. Notwithstanding the panel was made aware of Mr Waring's partial admissions to some of the allegations this fell far short of an indication that Mr Waring displayed true insight into the effects of his conduct either on individual pupils or the teaching profession in general.

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 the case would unacceptably compromise the public interest considerations present in this case, despite the severity of consequences for the teacher of prohibition.

The panel firstly considered that there is a clear public interest in retaining experienced teachers in the profession and acknowledged that Mr Waring is clearly a teacher of experience.

The panel is of the view that prohibition is both proportionate and appropriate in this case. The panel has decided that the public interest considerations in maintaining public confidence in the profession outweigh the interests of Mr Waring. The continued pattern of behaviour demonstrated by Mr Waring was a significant factor in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate 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. These behaviours include fraud or serious

dishonesty and serious sexual misconduct, e.g. where the act was sexually motivated and resulted in or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons. The panel has found that Mr Waring's behaviours demonstrated dishonesty and that he had conducted relationships with pupils which were sexually motivated and in some cases, especially with regards to Pupil A, had resulted in harm.

The panel also concluded that Mr Waring had not accepted the consequences of his own conduct and had showed no remorse. The panel considered Mr Waring appeared to blame others and at no point did Mr Waring seem to accept responsibility for his own actions over the past ten years.

The panel felt that Mr Waring had displayed a standard of behaviour which was repetitive in nature. The panel also noted that this pattern of behaviour happened at two different schools and continued even after a police investigation. The panel concluded that most people who had undergone such a police investigation would be very mindful of the impact of this type of behaviour in the future and would seek to do everything in their power to avoid any repetition. The panel felt that Mr Waring had received plenty of fair and reasonable warnings and guidance during his time at Gresham's school and therefore concluded that Mr Waring's attitude was deep seated, repetitive and dishonest in its nature.

Have considered whether a prohibition should not be recommended however, given the nature of the allegations and the persistent nature of the behaviour the panel felt there was no other choice but to recommend a prohibition order.

The panel went onto consider whether a review period would be appropriate. The panel took into consideration the serious sexual misconduct in this case, the dishonesty displayed by Mr Waring and found these to be strongly persuasive factors in its decision to not recommend a review period.

The panel therefore felt a review period would not be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.

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

I have given very careful consideration to this case and to the recommendation of the panel in respect of sanction and no 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 the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the

profession into disrepute and conviction, at any time of a relevant offence. The panel has made a recommendation to the Secretary of State that Mr Waring should be the subject of a prohibition order, with no review period.

In particular the panel has found that Mr Waring 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, and maintain high standards.
- 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 Waring fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of dishonesty, sexual misconduct and failure to observe proper boundaries.

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 Waring, 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 Waring abused his position of trust with vulnerable pupils across a wide range of ages", the panel further noted Mr Waring's behaviour, "went as far as being deep-seated and harmful." 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, "no evidence was

proffered by Mr Waring which provided an alternative viewpoint to the allegations submitted and showed no signs of remorse.” The panel has also concluded that Mr Waring “appeared to blame others and at no point did Mr Waring seem to accept responsibility for his own actions over the past ten years.” In my judgement the lack of insight suggests that there is some risk that this type of behaviour could be repeated in the future and this presents a further risk in terms of the protection of pupils.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. When considering public confidence the panel concluded, “that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Waring were not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of dishonesty and sexual misconduct 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 that professional standards are demonstrated by 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 Waring himself. The panel said Mr Waring was, “under a great deal of professional and personal stress however, when this evidence was tested the panel concluded that this did not seem entirely plausible”. The panel also noted having read references provided by Mr Waring which, “demonstrate that Mr Waring had a clear commitment to teaching excellence and supporting students”. A prohibition order would prevent Mr Waring 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 Waring had not accepted the consequences of his own conduct and had showed no remorse”.

I have also placed considerable weight on the finding of the panel that Mr Waring’s behaviour was “sexually motivated” and described Mr Waring’s attitude as, “deep seated, repetitive and dishonest in its nature”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Waring 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 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 no review period.

The panel found that the, “serious sexual misconduct in this case, the dishonesty displayed by Mr Waring” to be “strongly persuasive factors in its decision to not recommend a review period.”

I have considered whether no 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 three factors that in my view mean that no review period is sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the dishonesty found, the lack of either insight or remorse, and the serious nature of the sexual misconduct.

I consider therefore that no review period is required to satisfy the maintenance of public confidence in the profession.

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

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

Mr Waring has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he is given notice of this order.



**Decision maker:** Dawn Dandy

**Date:** 26 September 2017

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