



National College for  
Teaching & Leadership

# **Mr Alexander Barker: Professional conduct panel outcome**

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

**June 2017**

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

**Teacher:** Mr Alexander Barker

**Teacher ref number:** 1563111

**Teacher date of birth:** 14 September 1992

**NCTL case reference:** 15132

**Date of determination:** 21 June 2017

**Former employer:** Redbridge Community School, Southampton

### **A. Introduction**

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 19 June 2017 to 21 June 2017 at 53 to 55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Alexander Barker.

The panel members were Ms Susan Netherton (lay panellist – in the chair), Mr Tony Heath (lay panellist) and Mr Steve Woodhouse (teacher panellist).

The legal adviser to the panel was Miss Laura Ellis of Eversheds Sutherland (International) LLP solicitors.

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

Mr Alexander Barker was present and was represented by Mr Philip Dayle, who was instructed by the National Union of Teachers.

The hearing took place in public and was recorded.

## B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 27 February 2017.

It was alleged that Mr Alexander Barker was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Teacher at the Redbridge Community School, he:

1. Failed to maintain professional boundaries and/or engaged in an inappropriate relationship toward Pupil A in that, on one or more occasions, he:
  - a. communicated with Pupil A:
    - i. using Facebook;
    - ii. in his classroom after school hours;
    - iii. by telephone;
  - b. met with Pupil A outside of the Redbridge Community School's premises, including outside of school hours and at the weekend;
  - c. hugged Pupil A and/or touched Pupil's A arm and/or hand;
  - d. invited Pupil A to stay and/or sleep at his accommodation;
  - e. gave a necklace to Pupil A as a gift;
  - f. made a threat/offer for Pupil A to "kill a person" on her behalf, by stating that "When this is over and he's in jail or dead cause I've fucking killed him.....I will hunt him down no matter what [Pupil A]";
  - g. took Pupil A out of her class when she was taught by a supply teacher;
  - h. told Pupil A that he loved her.
2. Failed to act in accordance with safeguarding requirements towards Pupil A by:
  - a. not disclosing any and/or adequate information, in a timely manner, to the Redbridge Community School and/or the Local Authority in relation to Pupil A's threats to him about ending her own life;
  - b. not disclosing to the Redbridge Community School and/or the Local Authority Pupil A's reports to you about being "stalked" outside of the school's premises;

- c. not notifying the school that he was contacting Pupil A in the manner described at allegation 1.
- 3. His conduct as evidenced at allegation 1 generally, and specifically in respect to allegation 1.d and 1.h was:
  - a. sexually motivated;
  - b. dishonest in that he asked Pupil A to lie to her parents about where she was staying.

Mr Barker admits to allegations 1.a, 1.b, 1.c, 1.d, 1.e, 1.f, 1.g, 1.h, 2.a, 2.b, 2.c and 3.b. He also admits that the facts of these allegations amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Mr Barker denies allegation 3.a.

## **C. Preliminary applications**

In addition to the applications that were granted at the case management hearing on 12 May 2017 (detailed in the decision from that hearing), the following applications were made.

### **Application by Mr Dayle to admit an additional document:**

Mr Dayle made an application to admit an additional character reference on behalf of Mr Barker. The presenting officer did not object to this application. The panel decided to admit the document under paragraph 4.25 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession (the “Procedures”), as it considered that it was relevant to the case and that its admission was fair to the parties.

### **Decision on excluding the public from parts of the hearing relating to health issues:**

The panel considered whether to exercise its discretion under paragraph 11 of the Teachers’ Disciplinary (England) Regulations 2012 (the “Regulations”) and paragraph 4.57 of the Procedures, to exclude the public from parts of the hearing, in which evidence was given that discussed the mental health history of Pupil A. Mr Dayle also made an application to exclude the public from parts of the hearing where evidence was given that discussed the mental health history of Mr Barker. Both Ms Paxman and Mr Dayle stated that they were content for these parts of the hearing to be held in private.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. On this occasion however, the panel considers that it is reasonable for the parts of the hearing referred to above to be held in private for the following reasons: 1) It is not in the public

interest for detail regarding the mental health history of Pupil A and/or Mr Barker to be put into the public domain; 2) This protects the welfare of both Pupil A and Mr Barker. In relation to Pupil A, this is particularly important as she is a vulnerable witness and the panel considers that her anonymity in the proceedings does not sufficiently achieve this objective; and 3) The remainder of the hearing (which constitutes the majority of it) is to be held in public, which ensures that public confidence in the proceedings and standards of the profession are maintained.

The panel therefore determined to exercise its discretion under paragraph 11(3)(a) and 11(3)(b) of the Regulations and the first, second and third bullet points of paragraph 4.57 of the Procedures, that the public should be excluded from these parts of the hearing only. It therefore also follows that references to these issues should be redacted from the hearing transcript.

## **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 2 to 3

Section 2: Notice of Proceedings, response and Statement of Agreed Facts – pages 4 to 20

Section 3: NCTL witness statements – pages 21 to 43

Section 4: NCTL documents – pages 44 to 372

Section 5: Teacher documents – pages 373 to 401

In addition, the panel agreed to accept the following:

- Additional character reference regarding Mr Barker – page 402.

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

### **Witnesses**

The panel heard oral evidence from:

Witness A - The assistant headteacher of Redbridge Community School (the “School”)

Witness B – Teacher and head of mathematics at the School

Witness C - Pupil A

## **E. Decision and reasons**

The panel announced its decision and reasons as follows:

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

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

Mr Barker began employment as a newly qualified teacher of mathematics at the School on 1 July 2015. He began teaching Pupil A in September 2015. On 11 February 2016 Mr Barker resigned from the School, with effect from 24 March 2016. From 11 March 2016 he communicated with Pupil A via Facebook. It is alleged that he failed to disclose some safeguarding information regarding Pupil A to senior colleagues at the School and that the content of the communications between Mr Barker and the pupil were inappropriate. On 21 March 2016 Mr Barker's senior colleagues at the School became aware of the Facebook messages and he left the School at that point.

## **Findings of fact**

Our findings of fact are as follows:

The panel must decide whether the facts of the case have been proved on the balance of probabilities. The panel has found the following particulars of the allegations against you proven, for these reasons:

**It is alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Teacher at the Redbridge Community School, you:**

- 1. Failed to maintain professional boundaries and/or engaged in an inappropriate relationship toward Pupil A in that, on one or more occasions, you;**
  - a. communicated with Pupil A;**
    - i. using Facebook;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen 154 pages of Facebook messages between Mr Barker and Pupil A. These date from 11 March 2016 when Pupil A messaged Mr Barker, and continued to 21 March 2016.

This allegation is therefore found proven.

**ii. in your classroom after school hours;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also heard evidence from Witness B, who stated that she saw Pupil A with Mr Barker in his classroom on several occasions after the school day had finished. Witness B said that on one occasion the classroom door was shut so she went inside and asked Mr Barker to keep the door open to protect himself from safeguarding accusations. She said that Mr Barker and Pupil A were laughing and giggling, Pupil A was swinging around in his chair, they seemed very relaxed in each other's company and that Mr Barker was behaving in a more sociable way towards Pupil A than he did with any members of staff or other pupils. She said that his behaviour towards Pupil A was totally different from his behaviour towards other pupils, and that she had never seen a teacher behave towards a pupil in that way previously. She said this made her feel so uneasy that she reported it to her line manager. The panel found Witness B's evidence to be very credible.

This allegation is therefore found proven.

**iii. by telephone;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen records of calls and missed calls from Mr Barker to Pupil A and references in Facebook messages to telephone conversations that they had.

This allegation is therefore found proven.

**b. met with Pupil A outside of the Redbridge Community School's premises, including outside of school hours and at the weekend;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen copies of Facebook messages between Mr Barker and Pupil A in which they discussed occasions on which they had met outside of school.

This allegation is therefore found proven.

**c. hugged Pupil A and/or touched Pupil's A arm and/or hand;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute. In



particular, Mr Barker admitted during his oral evidence to the panel that he had hugged Pupil A.

This allegation is therefore found proven.

**d. invited Pupil A to stay and/or sleep at your accommodation;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen copies of Facebook messages in which Mr Barker invited Pupil A to visit his accommodation and stay overnight in his spare room.

This allegation is therefore found proven.

**e. gave a necklace to Pupil A as a gift;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute. Mr Barker stated during oral evidence, that the purpose of this was to give her an object on which to focus when feeling unhappy and having negative thoughts.

The panel has also seen a Facebook message from Mr Barker to Pupil A in which he stated that he had something to give her and a subsequent message from Pupil A to Mr Barker in which she said that she was holding the necklace that he had given her. Pupil A also states that Mr Barker gave her a necklace in her witness statement.

This allegation is therefore found proven.

**f. made a threat/offer for Pupil A to “kill a person” on her behalf, by stating that “When this is over and he’s in jail or dead cause I’ve fucking killed him.....I will hunt him down no matter what [Pupil A]”;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen a copy of the Facebook message in which Mr Barker wrote this to Pupil A.

This allegation is therefore found proven.

**g. took Pupil A out of her class when she was taught by a supply teacher;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Pupil A also states that Mr Barker did this in her witness statement.

This allegation is therefore found proven.

**h. told Pupil A that you loved her;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has also seen several Facebook messages in which Mr Barker said this to Pupil A.

This allegation is therefore found proven.

**2. Failed to act in accordance with safeguarding requirements towards Pupil A by;**

**a. not disclosing any and/or adequate information, in a timely manner, to the Redbridge Community School and/or the Local Authority in relation to Pupil A's threats to him about ending her own life;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has seen copies of several Facebook messages in which Pupil A stated to Mr Barker that she was considering suicide, dating from 14 March 2017.

Witnesses A and B explained that Mr Barker did not report this to the School at all. Witness A explained that Mr Barker had received safeguarding training from him at the beginning of the 2015 – 2016 academic year. He said that there were several members of staff at the School to whom Mr Barker could have (and should have) reported and documented the safeguarding issues regarding Pupil A, but that Mr Barker did not do this. Witness A also states that the School operated an online electronic system by which staff were required to disclose any safeguarding concerns regarding students, and that Mr Barker did not use this.

Witness B stated that during a discussion that she initiated with Mr Barker on 15 March 2016 about Pupil A, she asked Mr Barker whether he was aware of any safeguarding issues regarding Pupil A, and that he said “no”. He only reported to her that Pupil A was having issues with friends and that he was supporting Pupil A with this. The panel has also seen a copy of a Facebook message from Mr Barker to Pupil A on 15 March 2016 in which he informed Pupil A that he had told Witness B that there were no safeguarding issues with Pupil A. Witness A stated that the School only became aware of the safeguarding issues on 21 March 2016, when the Facebook messages between Mr Barker and Pupil A were discovered.

This allegation is therefore found proven.

**b. not disclosing to the Redbridge Community School and/or the Local Authority Pupil A's reports to you about being "stalked" outside of the school's premises;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

In addition to the evidence mentioned above under allegation 2.a, the panel also notes that Mr Barker admitted during his oral evidence, that Pupil A first disclosed to him after school on 11 March 2016 that she was being stalked, and that he should have reported this to his senior colleagues at the School immediately. The panel has seen subsequent Facebook correspondence in which Pupil A reported that she had been stalked.

This allegation is therefore found proven.

**c. not notifying the school that you were contacting Pupil A in the manner described at allegation 1;**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Witness A also stated that he and his colleagues at the School were unaware that Mr Barker had communicated with Pupil A on Facebook and outside of the School's premises, until they discovered the Facebook messages between Mr Barker and Pupil A on 21 March 2016.

This allegation is therefore found proven.

**3. Your conduct as evidenced at allegation 1 generally, and specifically in respect to allegation 1.d and 1.h was:**

**b. dishonest in that you asked Pupil A to lie to her parents about where she was staying.**

Mr Barker admits the facts of this allegation and that it amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has considered the legal two stage test for dishonesty, namely 1) whether on the balance of probabilities, Mr Barker acted dishonestly by the ordinary and honest members of the teaching profession, and then 2) whether it is more likely than not that he realised that his behaviour was by those standards dishonest.

The panel has seen Facebook messages in which Mr Barker invited Pupil A to his house and then suggested she could tell her parents that she was staying at a friend's house if they asked where she was going.

The panel therefore considers that both limbs of the test above are met. This allegation is therefore found proven.

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

**3. Your conduct as evidenced at allegation 1 generally, and specifically in respect to allegation 1.d and 1.h was:**

**a. sexually motivated;**

Mr Barker denies this allegation.

The panel has considered the two stage legal test for determining sexual motivation. Namely, 1) whether on the balance of probabilities reasonable people would think that the words and actions found proven could be sexual and then 2) whether in the circumstances of the case, it is more likely than not that Mr Barker's purpose of those words and actions was sexual.

The panel considers that the first stage of this test is met. This is because the content of the numerous messages that Mr Barker sent to Pupil A strongly convey that he had developed romantic feelings for her. He repeatedly told her that he loved her and needed her, and made comments that depict an intense affection towards her. Some messages were sent at night and early in the morning. He also attempted to telephone her several times, suggested that they meet outside of School so that they could spend time alone whilst his wife was away (at both his home and a hotel), and hugged her. Furthermore, Witness B states that she saw Mr Barker and Pupil A spend time with each other alone on several occasions in his classroom after lessons when no one else was present, sometimes with the door closed (contrary to the school's policy). Witness B also said that Mr Barker appeared to be responding to Pupil A's flirtatious behaviour towards him.

However, in relation to the second limb of the test, the panel does not consider that this is met. This is because although the messages could be construed as having a sexual motivation, none of them were overtly sexual or directly suggestive. The panel accepts Mr Barker's evidence that his behaviour was a misguided attempt to help Pupil A, and that his concern for her welfare was his overriding motivation. There is also no evidence of sexual activity or that Mr Barker sought to initiate this with Pupil A. The panel considers that it has been invited to infer sexual motivation by the NCTL. The panel has considered this very carefully and is of the view that the NCTL has not discharged its burden of proof in relation to this allegation.

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

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

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

The panel is satisfied that the conduct of Mr Barker fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Barker’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice, and has found that none of these offences are relevant.

The panel notes that Mr Barker did receive safeguarding training from the School and was familiar with its extensive safeguarding policies, and yet he failed to comply with these. Pupil A made several very serious disclosures to Mr Barker about her personal safety. The panel considers that Mr Barker’s failure to report these was completely irresponsible and constituted a lack of regard for her welfare. The consequences of the threats to her safety could have been much more serious for her.

In some of the messages that Mr Barker sent to Pupil A, he also explained to her that he was not allowed by the School to communicate with her in that way and that there was a risk that if their communications were discovered, he could get into trouble. He also said during his oral evidence to the panel that he sought to keep his communications with

Pupil A secret from his wife, as he anticipated that his wife would have told him to report them. It was therefore apparent to the panel that Mr Barker knew full well that his communications with Pupil A and failure to report them were inappropriate, from the outset and throughout the exchanges. Furthermore, he had the opportunity to report the safeguarding concerns regarding Pupil A to Witness B on 15 March 2016 when Witness B initiated a discussion with him concerning Pupil A, but failed to do so. The panel accepted Mr Barker's evidence that he continued the communications in the belief that he was assisting Pupil A. The panel considers that this was entirely misguided and contrary to his training and responsibilities as a professional teacher.

Accordingly, the panel is satisfied that Mr Barker 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 have a negative impact on Mr Barker's status as a teacher, potentially damaging the public perception.

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

Having found the facts of the particulars of allegations 1, 2 and 3.b proved, the panel further finds that Mr Barker's conduct amounts to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel has to consider whether it is an appropriate and proportionate measure, and whether it is in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have 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 maintenance of public confidence in the profession, and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Barker, which involved a failure to report safeguarding concerns regarding a pupil, a strong public interest consideration in declaring proper standards of conduct in the profession is present, as the conduct found against Mr Barker was outside that which could reasonably be expected. Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Barker were not treated with the utmost seriousness when regulating the conduct of the profession.

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 Barker.

In carrying out the balancing exercise, the panel has considered the public interest considerations both in favour of and against prohibition, as well as the interests of Mr Barker. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up.

Even though there were behaviours that would point to the appropriateness of a prohibition order, the panel went on to consider whether or not there were sufficient mitigating factors to militate against the appropriateness and proportionality of the imposition of a prohibition order, particularly taking into account the nature and severity of the behaviour in this case. In light of the panel's findings, Mr Barker's actions were deliberate and he was not acting under duress. There are no previous disciplinary proceedings or warnings. Mr Barker does not have an extensive history as a teacher as he was a newly qualified teacher when the allegations arose.

The panel has considered the character statements from Mr Barker's previous PGCE maths tutor and his wife. However, the panel considers that these have little bearing upon his ability to report safeguarding concerns or maintain professional boundaries with students.

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 in 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, despite the severity of consequences for Mr Barker of prohibition.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations clearly outweigh the interests of Mr Barker. This is because his failure to report the safeguarding concerns regarding pupil A was extremely serious and put her life at risk. He knew that he should have reported the concerns to the School at the time and that failing to do so contravened his safeguarding training, and yet he deliberately disregarded this. He also knew that Pupil A was a vulnerable pupil. He stated during his oral evidence that he did not report the concerns to the School, because he was worried that in doing so his Facebook messages would come to light and he would get into trouble for these. The panel considers that this constituted putting the interests of his own career above the safety of Pupil A, which was extremely unprofessional and demonstrated a lack of maturity and judgment. The content of the Facebook messages between Mr Barker and Pupil A indicate that Mr Barker appeared to enjoy the attention that he was receiving from Pupil A and that he obtained some gratification from the fact that she had become dependent upon him for support. Furthermore, Mr Barker was dishonest in that he lied to Witness B on 15 March 2016 by telling her that there were no safeguarding issues in relation to Pupil A. He also stated during his oral evidence that he chose not to disclose the situation to his wife (redacted) as she would have told him to report them to the School. The School only became aware of the issues on 21 March 2016, when Mr Barker's Facebook communications with Pupil A were reported by another pupil. Of additional concern is the fact that during Mr Barker's oral evidence, when he was asked to reflect upon his actions, he stated that he "did not think" that he would respond in the same way again. This does not give the panel confidence that the situation will not be repeated. For all of these reasons, the panel is very concerned that there remains a 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 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 serious dishonesty. The panel has made a finding of dishonesty in relation to allegation 3.b, but does not consider that this on its own constitutes 'serious dishonesty'. However, the panel does consider that Mr Barker was dishonest in failing to report the safeguarding concerns regarding Pupil A from 11 March 2016 to 21 March 2016 (particularly when he told Witness B that there were no safeguarding concerns on 15 March 2016) and that the consequences of this were potentially extremely serious for Pupil A. Furthermore, the issues only came to light when the Facebook messages were reported to the School by another pupil, rather than at the instigation of Mr Barker.

Although Mr Barker did admit all of the allegations that were found proved, the panel does not consider that he has shown sufficient insight into the seriousness of failing to report the safeguarding concerns regarding Pupil A. His behaviour demonstrated a lack of emotional maturity and empathy. The panel accepts that Mr Barker is of good character and that he does indeed have a passion for mathematics, but remains unpersuaded that he is suited to working in the teaching profession, and particularly in a school environment. This is because he completely disregarded the professional duty of care that he owed to Pupil A and the panel is not convinced that Mr Barker would act differently in the future.

The panel therefore felt that the findings indicated a situation in which 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 review period.

In considering this case, I have 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 some allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Where the panel has not found an allegation proven, I have put that allegation completely from my mind. The panel has made a recommendation to the Secretary of State that Mr Barker should be the subject of a prohibition order with no provision for a review period.

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

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

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

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 Barker 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, "Pupil A made several very serious disclosures to Mr Barker about her personal safety. The panel considers that Mr Barker's failure to report these was completely irresponsible and constituted a lack of regard for her welfare. The consequences of the threats to her safety could have been much more serious for her." 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, "does not consider that he has shown sufficient insight into the seriousness of failing to report the safeguarding concerns regarding Pupil A. His behaviour demonstrated a lack of emotional maturity and empathy." In my judgement, the lack of insight means that there is a serious risk of the repetition of this behaviour and this risks future pupils' well-being and safeguarding. 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 that the "findings of misconduct are serious and the conduct displayed would have a negative impact on Mr Barker's status as a teacher, potentially damaging the public perception." I am also particularly mindful of the finding of dishonesty 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 Barker himself. I have read the panel’s comments on his ability as a mathematics teacher. I have also noted the positive comments that the panel considered. However, alongside that I note that the panel says, “these have little bearing upon his ability to report safeguarding concerns or maintain professional boundaries with students.”

A prohibition order would prevent Mr Barker from teaching.

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has said, “Of additional concern is the fact that during Mr Barker’s oral evidence, when he was asked to reflect upon his actions, he stated that he “did not think” that he would respond in the same way again. This does not give the panel confidence that the situation will not be repeated. For all of these reasons, the panel is very concerned that there remains a risk of repetition.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Barker has made and is making 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 that there be no review period.

I have considered the panel’s comments, where it states that it “remains unpersuaded that he is suited to working in the teaching profession, and particularly in a school environment. This is because he completely disregarded the professional duty of care that he owed to Pupil A and the panel is not convinced that Mr Barker would act differently in the future.”

I have considered whether allowing for 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 allowing for no review is proportionate and in the public interest. Those are the serious failure to report safeguarding concerns, the dishonesty and the lack of sufficient insight.

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

**This means that Mr Alexander Barker 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 Alexander Barker 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 Alexander Barker 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 'AL C M' followed by a checkmark-like flourish.

**Decision maker: Alan Meyrick**

**Date: 26 June 2017**

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