



Teaching
Regulation
Agency

Mr Mark Rodda: Professional conduct panel outcome

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

April 2018

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	5
D. Summary of evidence	13
Documents	13
Witnesses	13
E. Decision and reasons	13
Panel's recommendation to the Secretary of State	33
Decision and reasons on behalf of the Secretary of State	36

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

Teacher:	Mr Mark Rodda
Teacher ref number:	1233771
Teacher date of birth:	28 January 1982
TRA reference:	16388
Date of determination:	12 April 2018
Former employer:	Brookfield Community School (“the School”)

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 to 12 April 2018 at The Ramada Hotel, The Butts, Coventry, CV1 3GG to consider the case of Mr Mark Rodda.

The panel members were Professor Ian Hughes (lay panellist – in the chair), Mrs Kathy Thomson (teacher panellist) and Ms Jean Carter (lay panellist).

The legal adviser to the panel was Miss Hannah James of Eversheds-Sutherland (International) LLP solicitors.

The presenting officer for the Teaching Regulation Agency was Ms Louisa Atkin of Browne Jacobson LLP solicitors.

Mr Mark Rodda was not present and neither was Mr Rodda’s representative; Jeanette Gay of National Education Union Solicitors. Mr Rodda’s representative did, however, submit some documentation to the panel and the TRA on 5 April 2018. These were some written applications and submissions in support, as well as some comments from Mr Rodda as to his comments in relation to the allegations.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 6 February 2018.

It was alleged that Mr Mark Rodda was guilty of unacceptable professional conduct in that, following a Professional Conduct Panel making findings of fact in May 2016 which related to his conduct at Clifton Community School and:

A. Whilst employed as a Teacher at Brookfield Community School between January 2017 and May 2017 he:

1. engaged in inappropriate physical contact with one or more pupils, including by:
 - a. massaging their shoulders and/or back and/or neck;
 - b. touching their hair;
 - c. touching their face(s);
 - d. touching their hands;
 - e. putting his arm(s) around them;
2. made comments which were inappropriate and/or of a sexual nature to one or more pupils, by making comments including or to the effect of:
 - a. "are you going to spit or swallow";
 - b. "size does matter and all the boys know it";
 - c. "is not a relationship if it's your right hand";
 - d. "it must be my age, I can't get it up";
 - e. "what I do with my partner is not what I'd do to a student";
 - f. "are you looking at his cock, because if you are you will need a microscope";
 - g. "are you tired from watching too much porn?";
 - h. telling Pupil C that he had "not hit puberty";
 - i. telling Pupil H he was going to "snap his neck";
 - j. "there's nothing there" when referring to a pupil's genital area;
 - k. saying that he would "rather blow shit up";

3. acted with lack of professional judgement, including by;
 - a. asking for, and then borrowing, a lighter from one or more pupils;
 - b. discussing his smoking habits with one or more pupils.

B. Whilst applying for the role of Teacher at Brookfield Community School and/or following his appointment, he:

4. acted with a lack of integrity and/or was dishonest, in that he provided misleading information and/or failed to disclose relevant information in order to improve his prospects of securing and/or retaining a teaching post, including:
 - a. in or around November 2016 by suggesting that he had left his previous employment due to “Personal reasons”, when he had resigned shortly prior to a Disciplinary Hearing concerning his conduct;
 - b. during his interview on or around 13 December 2016, by suggesting that he had left his previous employment as a result of a change of head teacher, when he had resigned shortly prior to a Disciplinary hearing concerning his conduct;
 - c. during a meeting on or around 22 March 2017, by suggesting that a student had made an allegation which was “proved to be false”, despite the fact that in May 2016, a Professional Conduct Panel of the NCTL (as it was then known) had made findings of a fact in relation to his conduct toward a student.

C. Preliminary applications

In advance of the hearing the TRA made a direction pursuant to paragraph 4.39 of “Teacher misconduct - Disciplinary procedures for the teaching profession” (the “Procedures”) that Special Measures arrangements be put in place to allow the child witnesses (Pupil A, Pupil B, Pupil N, Pupil I and Pupil P) to give their evidence by way of video link providing a TRA member of staff is present at the venue supervising the link and providing the School make reasonable arrangements so that the witnesses cannot communicate with each other on the day prior to giving evidence.

A number of preliminary issues fell to be considered and so the panel first addressed whether or not the hearing should continue in the absence of Mr Rodda. If the panel decided it should not, then it would not become necessary for the panel to consider the balance of the preliminary issues proposed.

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

The panel is satisfied that the TRA has complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations"). The panel is also satisfied that the Notice of Proceedings complies with paragraphs 4.11 and 4.12 of the Procedures.

The panel has determined to exercise its discretion under Paragraph 4.29 of the Procedures to proceed with the hearing in the absence of Mr Rodda.

The panel understands that its discretion to commence a hearing in the absence of Mr Rodda has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one.

In making its decision, the panel has noted that Mr Rodda may waive his right to participate in the hearing. The panel has taken account of the various factors drawn to its attention from the case of R v Jones [2003] 1 AC1. The panel is satisfied that Mr Rodda is aware of the proceedings. Firstly, the Notice of Proceedings was sent to Mr Rodda on 6 February 2018 and therefore more than 8 weeks' notice has been given. And secondly, Mr Rodda provided his completed response to the Notice of Proceedings on 7 March 2018 confirming within it that he would not be attending. He stated within that he "would like the hearing to proceed in [his] absence". The panel therefore considers that Mr Rodda has waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place.

The panel has had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There is no indication that an adjournment might result in the teacher attending the hearing. Mr Rodda has also indicated that he does not wish to be legally represented at the hearing.

The panel has had regard to the extent of the disadvantage to Mr Rodda in him not being able to give his account of events, having regard to the nature of the evidence against him. The panel will address this by taking into account the statements made by Mr Rodda during his investigator interview with the School in order to ascertain the lines of defence. The panel has noted that all witnesses called by the presenting officer who will give oral and video link evidence can be tested. The panel will do this by questioning those witnesses, considering such points as are favourable to the teacher, as are reasonably available on the evidence. The panel has identified gaps in the documentary evidence provided to it in respect of the lack of any teacher documentation and so 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 number of child witnesses appearing by video link, who are prepared to give evidence, and that it would be inconvenient and distressing for them to have to prepare to appear again.

The panel has had regard to the seriousness of this case, and the potential consequences for Mr Rodda and has accepted that fairness to him is of prime importance. However, it considers that in light of Mr Rodda's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar 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.

For the above reasons, the panel decided to proceed with the hearing in the absence of Mr Rodda. The panel therefore directed its attention to consider the other preliminary issues.

The panel received a document on 5 April 2018 setting out a number of applications, as follows:

1. An application by the teacher's representative that the TRA's pupil witnesses be prohibited from giving evidence in the absence of proper witness statements.
2. An application by the teacher's representative that the written accounts/notes relating to the pupils be excluded from the evidence considered by the panel.
3. An application by the teacher's representative that the panel give a direction that either the pupils should give video evidence from a different neutral location, or else that no member of the school staff should in any way participate in or be present at the video evidence process.
4. An application by the teacher's representative that the panel give a direction that Mr Rodda's comments (provided to the TRA on 5th April 2018) as to which allegations in these proceedings he admits, should be admitted into evidence (i.e. the late addition of documents).
5. An application by the presenting officer that Pupil N's mother be permitted to be present during Pupil N's evidence to provide moral support.

The panel considered each of these applications in turn.

In respect of application 1, the panel considered paragraphs 4.62 to 4.71 of the Procedures in relation to witnesses. The panel noted that 4.63 acknowledges that there is no absolute requirement that signed witness statements will be copied to relevant parties and taken as read. The panel also took into account the fact that Mr Rodda was informed by the TRA on 6 February 2018 that it intended to call pupils A, B, N, I and P as witnesses to give evidence at the hearing. Further, the panel took into account that Mr

Rodda had received all of the documentation in Section 4, including the contemporaneous written and typed accounts taken from/given by the pupils on four dates between the period of 8 June 2017 to 7 July 2017. The panel therefore considers that Mr Rodda has had plenty of opportunity, since July 2017, to raise objections and to request that formal signed witness statements be provided in advance of the hearing.

The panel also considered Mr Rodda's right to a fair hearing in accordance with Article 6 of the European Convention on Human Rights, and his right to know the case against him and to have the opportunity to respond to it. However, given that (i) the TRA is not proposing to adduce new evidence, (ii) Mr Rodda has been in receipt of the pupils' accounts since July 2017, (iii) neither Mr Rodda nor his representative is appearing to cross examine the pupils on the written accounts when they have an ability to attend to do so but have voluntarily absented themselves, and (iv) the panel is unsure as to the reasons why Mr Rodda and his representative decided not to attend, the panel considers Mr Rodda will suffer no prejudice if the pupils are permitted to give evidence by way of video link. The panel considered that it will have the opportunity to ask questions of the pupils on their evidence and to scrutinise the evidence given. The panel can also attach such weight to it as it deems appropriate in the circumstances.

For the above reasons, the panel refused application 1.

In respect of application 2, the panel considered the same factors as those set out above in relation to the written and typed accounts of those pupils who will appear to give evidence by way of video link at the hearing. And for the same reasons as those set out above the panel decided to allow the written and typed accounts of those pupils appearing to give evidence to remain in the bundle. In relation to the written and typed accounts of those pupils who will not be giving evidence, however, the panel considered whether those documents are either hearsay evidence, or, evidence which will not be subject to proper scrutiny as put forward by Mr Rodda's representative.

Following consideration of the advice of the legal adviser in relation to hearsay evidence, the panel considered paragraph 4.20 of the Procedures has been complied with, in that the written and typed accounts of those pupils not giving evidence were submitted to Mr Rodda as documents upon which the TRA proposed to rely at least 4 weeks prior to the hearing. The admissibility of those documents had not been disputed by Mr Rodda until 5 April 2018. The panel considered whether Mr Rodda would have objected to the inclusion of these documents in the bundle had he known that the witnesses to which the accounts relate would not be giving evidence. Mr Rodda received these written and typed accounts in July 2017 and he was aware of which witnesses were giving evidence, at the latest, on 6 February 2018. However, he did not raise it as an issue until one working day before the hearing, on 5 April 2018. In determining whether the documents should be removed, the panel considered paragraph 4.18 of the Procedures which states that 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 consider these accounts to be directly relevant to the

case given that they relate to the facts contained in the allegations. The panel understood that these accounts could not be challenged by Mr Rodda upon cross examination as the witnesses to which they relate were not appearing to give evidence. However, the panel considered that Mr Rodda, nor his representative, are appearing to cross examine any witnesses and so even if these witnesses were present, Mr Rodda would not be challenging their accounts.

The panel considered the factors set out in the case of R (on the application of Bonhoeffer) v GMC in reaching its decision as to whether the written and typed accounts of those pupils who are not giving evidence at the hearing should be left in the bundle. The panel noted in particular that in proceedings other than criminal proceedings there is no absolute entitlement to the right to cross-examine pursuant to Article 6(3)(d). However, in professional disciplinary proceedings, although not classified as criminal, some of the requirements of a fair trial spelt out in Article 6(2) and (3), including in particular the right to cross-examine witnesses whose evidence is relied on against them, may still be relevant. The panel considered the issues in the round having regard to all relevant factors. The panel attached particular weight to the seriousness and nature of the allegations and the gravity of the adverse consequences to Mr Rodda in the event of the allegations being found to be proven. The panel also considered the protections required for a fair trial.

The panel considered that protection is available in respect of the provision of a hearsay warning before the panel makes its determination on facts, including the weight to be attached to hearsay, which the panel has noted above.

For the above reasons, the panel refused application 2.

In respect of application 3, the panel considered Mr Rodda's concerns that a member of the School staff with knowledge of the case would be present at the video session and also that the pupils giving evidence at the School may fear they would get into trouble if their accounts were not the same as those given to the School during its investigation. Mr Rodda stated that he would not pursue this application further should the only involvement of School staff be to escort the pupils to and from the video room and provided the member of staff had no prior knowledge or involvement in the issues which are the subject of these proceedings. The panel also considered the TRA's direction that *"should the school require a member of staff to be present then this should be one with no prior knowledge or connection to the case to ensure that witnesses feel under no pressure"*. The panel also noted the TRA's submission that the panel will be able to test the witnesses on their evidence and is entitled to question the witnesses as to whether anyone has spoken to them about their evidence on the way to and from the video link room.

It is the panel's understanding, and also that of the presenting officer, that the School do not require the attendance of any member of staff whilst the pupils are giving evidence, given that a TRA staff member will be present during the video link evidence. The panel

also notes that there has been no application for the hearing to take place in private, and so, if the pupils were giving evidence in the hearing venue there could be no objection to the School's members of staff being present in the hearing room whilst the pupils are giving evidence.

The panel therefore considers that the amount of involvement of School staff as currently directed is for practical purposes only and would not cause Mr Rodda any prejudice or risk.

For the above reasons, the panel refused application 3.

In respect of application 4, Mr Rodda has applied to admit a document which sets out his position as to whether he admits or denies each of the allegations. The document was not served in accordance with the requirements of paragraph 4.20 of the Procedures, as Mr Rodda did not submit this document to the presenting officer, the TRA or the panel until 5 April 2018, one working day before the beginning of the hearing. As such the panel is required to decide whether this document should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel took into account the written representations of the teacher and presenting officer as to the admission of the document, as well as the oral representations of the presenting officer. The presenting officer's written representations confirm that the TRA has no objection to this document being admitted into evidence on the basis that the presenting officer agrees it is relevant in terms of setting out Mr Rodda's response to the allegations.

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 is satisfied that the document is relevant to the case as it is Mr Rodda's only detailed response to the allegations and it is therefore highly likely to assist the panel in its consideration of the matter, and, in particular, in assisting the panel to understand Mr Rodda's admissions.

The panel noted that there is a distinction to be drawn between the situation when a presenting officer seeks to rely upon hearsay evidence, and the current situation when it is the defence seeking to introduce hearsay evidence, without the teacher being in attendance as a witness. The former invokes considerations relating to the Mr Rodda's right to a fair hearing, whereas the latter does not, although there remains a question of the fairness between the parties. The panel had regard to whether it would be a sufficient safeguard for a hearsay warning to be given before the panel's determination on the facts. The panel was satisfied that any imbalance caused to the presenting officer in being unable to cross-examine Mr Rodda could be addressed by the panel's decision in due course as to what weight it should attach to the evidence, if such evidence is admitted.

By reason of the above, the panel agreed to application 4 and directed that the document proposed by Mr Rodda be admitted as “Teacher documents” and included as Bundle C.

In respect of application 5, the panel has considered the advice provided by the legal adviser in relation to child witnesses, and due to the pupils being younger than 18 years of age as at the date of the hearing, the panel directs that witnesses Pupil A, Pupil B, Pupil N, Pupil I and Pupil P are to be treated as child witnesses. The panel considered paragraph 4.71 of the Procedures and has noted that there is no medical evidence that the welfare of such witnesses will be prejudiced by their giving evidence and the panel is therefore content for them to give evidence. As Pupil A, Pupil B, Pupil N, Pupil I and Pupil P are child witnesses, the panel will considered adopting such measures as it considers necessary to safeguard their interests as child witnesses when they give evidence. The panel noted that the TRA already directed that the pupils are permitted to give evidence by way of video link and the panel agreed with this direction.

When considering this same advice from the legal adviser in relation to the special measures the panel can afford to child witnesses, the panel has taken into account the application by the presenting officer requesting that Pupil N [redacted] has permission to permit (in addition to the TRA member of staff) Pupil N’s mother to be present when Pupil N’s evidence is given by video link. Mr Rodda had no objection to this application and agreed to this additional direction being made. The panel has considered its obligation to ensure that Mr Rodda is not put at an unfair disadvantage, balanced against its duty in the public interest to investigate the allegations in so far as it is possible to do so consistent with fairness to Mr Rodda. The panel has taken into account that Pupil N is a child witness and may be considered vulnerable [redacted] and is satisfied that Mr Rodda would not be prejudiced by the silent presence of the mother of Pupil N whilst Pupil N gives evidence by way of video link. The panel acknowledged Mr Rodda’s agreement to Pupil N’s mother being present.

For the above reasons, the panel agreed to application 5 and directs that Pupil N’s mother may be present and silent when Pupil N gives evidence.

During the hearing two further applications were made by the presenting officer.

The first was to ask that one of the pupils, Pupil B, give evidence via telephone rather than by video link as directed. The panel heard advice from the legal adviser and then noted that Pupil B is a child witness under the age of 18. The panel further noted that, pursuant to paragraph 4.18 of the Procedures, it may admit any evidence where it is fair to do so which may reasonably be considered to be relevant to the case.

The panel therefore considered it had a discretion as to whether to allow Pupil B to give evidence by way of telephone, given that the video link by which the witness had planned to give evidence had failed, and also given the delay, inconvenience and disruption that would result if the panel could not progress at this point to hear Pupil B’s evidence. In exercising that discretion, the panel balanced its obligation to ensure that Mr Rodda was

not put at an unfair disadvantage, as against the panel's duty, in the public interest, to investigate the allegations in so far as possible consistent with fairness to Mr Rodda. The panel also took into account that there may be subtleties of expression that might be lost via the medium of telephone and that the panel would not have the benefit of observing the body language of the witness.

The panel was satisfied on the evidence that, due to the disruption and delay it would cause if Pupil B could not provide his evidence now, and if the panel were to wait for an undetermined time until the video link were fixed, it would not be sensible and that, therefore, it was in the interests of justice to proceed.

Allowing Pupil B's evidence to be given by telephone ensures that the presenting officer is fully able to present the case, and the fact that fairness requires that Mr Rodda (or his representative) should be given the opportunity to ask questions of this witness was not an issue for the panel as neither had chosen to attend the hearing to do so in any event. The public interest is in favour of the allegations being investigated by the panel receiving the evidence of Pupil B. The panel realised that subtleties of expression may be lost via the medium of telephone and that it cannot observe body language but considered that such matters could, in any event, be taken into account when assessing the weight it attributes to the evidence admitted by telephone.

The panel therefore decided to allow Pupil B to give evidence by telephone.

During the hearing the presenting officer also made an application to amend the Notice of Proceedings by amending allegation 2.h. in relation to the pupil mentioned in the allegation, from "Pupil I" to "Pupil C".

Before making the amendment, the panel considered the representations of the presenting officer as to why the change was required, namely that confusion was caused by the written evidence due to the similarity of two pupil's names and there was an error in allegation 2.h. which she sought to correct. The panel also heard advice from the legal adviser.

The panel noted that it has the power, in the interests of justice, to amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proven.

The panel noted that this application was made at a late stage in the proceedings, and exercised caution to ensure that there was no unfairness to the teacher. The panel noted that the witness statements that were potentially relevant to this allegation, and which were included in the panel bundle, had all been disclosed to the teacher prior to the hearing.

The panel considered that the amendment proposed (i) was the correction of an error, (ii) does not change the nature, scope or seriousness of the allegation, (iii) would not result in there being any prospect of the teacher's case being presented differently had the

amendment been made at an earlier stage, (iv) simply changed the identity of the pupil to whom it relates and does not alter the mischief contained in the allegation which was what was said, rather than to whom it was said, and (v) would not affect the comments made by Mr Rodda in his defence which were that he did not remember saying it to any pupil. For those reasons, the panel considered that Mr Rodda would suffer no unfairness or prejudice if the allegation were to be amended.

The panel had in mind that the interests of justice were in favour of this allegation not being found proven as a result of poor drafting. The panel also considered that there is a strong public interest in the allegation being determined.

For the above reasons the panel agreed to the amendment.

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 1 to 6

Section 2: Notice of Proceedings and Response – pages 7 to 17

Section 3: Teaching Regulation Agency witness statements – pages 18 to 22

Section 4: Teaching Regulation Agency documents – pages 23 to 224

In addition, the panel agreed to accept the following:

TRA's Special Measures Direction of 22 March 2018 – page 225

Preliminary Applications document - Bundle B - pages 1 to 6

Mark Rodda's Submissions document - Bundle C - pages 1 to 6

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

Witnesses

The panel heard oral evidence from the headteacher of the School as well as evidence by way of video link from various pupils of the School; Pupil A, Pupil N, Pupil I and Pupil P. Pupil B gave evidence by telephone. All of the witnesses were called by the presenting officer.

E. Decision and reasons

After the presenting officer had given her closing submissions but before the panel considered its decision on facts, the presenting officer made an application to amend the stems of the allegations to add an “A” before the paragraph beginning “Whilst employed as a Teacher at Brookfield Community School...” and a “B” before the paragraph beginning “Whilst applying for the role of Teacher at Brookfield Community School...”. The panel, having already heard advice from the legal adviser on amending allegations, took into account that legal advice again.

The panel considered whether or not Mr Rodda was likely to have presented his case differently had the letters been included at the outset, as well as whether Mr Rodda would be prejudiced if the letters were added now. It also considered the public interest and the effect the change would have, as well as whether allowing the amendment would be in the interests of justice. The panel did not consider that the addition of these letters changed the scope or seriousness of the allegations, and the panel considered that Mr Rodda would be highly unlikely to have altered his submissions if the letters had been included at the outset, since Mr Rodda’s submissions were drafted to respond to the allegations as though the letters were already in the allegations. On that basis, the panel allowed the amendments to be made.

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided.

Mr Rodda was employed as a teacher of science at Brookfield Community School (“the School”) from 1 January 2017. On or around 19 January 2017 Mr Rodda was provided with a copy of the “Keeping Children Safe in Education 2016” guidance. Later that month the School received an email from a parent with concerns as to Mr Rodda’s making inappropriate comments in lessons. Several pupils had raised similar allegations that Mr Rodda had acted inappropriately in the classroom by making comments of a sexual and/or inappropriate nature. There was also an allegation that Mr Rodda had had inappropriate physical contact with pupils in lessons. Mr Rodda was suspended on 14 March 2017 pending an investigation and the investigatory interview took place on 22 March 2017. The investigation considered whether there were sufficient reasonable grounds for the allegation of gross misconduct against Mr Rodda to be substantiated. The disciplinary hearing was due to take place on 10 May 2017; however, Mr Rodda resigned two days earlier, on 8 May 2017. A disciplinary hearing did not therefore take place.

Findings of fact

The panel thought it was important to note that the pupil witnesses from whom it heard evidence were confident, convincing and consistent in their accounts, and both credible and reliable. The panel also noted that the pupils were not in the same friendship groups.

The panel's findings of fact are as follows.

It was alleged that Mr Mark Rodda was guilty of unacceptable professional conduct in that, following a Professional Conduct Panel making findings of fact in May 2016 which related to his conduct at Clifton Community School and:

The overarching stem of the allegations against Mr Rodda makes reference to a previous determination made by a previous professional conduct panel and that decision, dated May 2016, is included in the bundle before the panel. The panel noted the advice from the legal adviser that the panel will need to be satisfied that such a finding was made in order to find the stem of the allegations proven. The panel understood it is not being asked to reconsider the matters that led to any such finding.

The advice from the legal adviser was that, with regard to allegations 1 and 2 the panel will need to consider whether the reference to a previous finding by a professional conduct panel is relevant to this panel's determination of Mr Rodda's propensity to have carried out the alleged facts. The panel noted that it usually only becomes aware of a teacher's previous history at the second stage of the proceedings when considering whether a prohibition order should be recommended and the reason for that is to avoid any prejudice when determining findings of fact.

The panel noted that the Crown Prosecution Service's Prosecution Policy relating to defendants in criminal proceedings states that evidence of previous misconduct is admissible when relevant to the issues in the case and does not contravene the right to a fair hearing under Article 6 of the European Convention of Human Rights. The legal adviser further advised the panel that it would need to consider whether there are any features of the previous findings of fact that show a propensity towards the conduct now alleged in relation to each of allegations 1 to 4. If so, the panel can take account of it. If there is not, except for its relevance to whether the earlier finding ought to have been disclosed, the earlier finding has no other relevance.

The presenting officer submitted to the panel that the previous finding of the professional conduct panel was relevant for the panel's determination of the circumstances in which Mr Rodda found itself.

A. Whilst employed as a Teacher at Brookfield Community School between January 2017 and May 2017 he:

- 1. engaged in inappropriate physical contact with one or more pupils, including by:**

In relation to the relevance of the previous finding of fact of May 2016, the panel took into account the legal advice and the presenting officer's submissions. The panel noted that the nature of the allegations in the previous professional conduct panel's findings were similar in nature to the current allegations. It could therefore take the previous findings of fact into account with regard to propensity. However, the panel has made the decision as to whether the facts are proven on the basis of the evidence presented to it in this hearing and has had no regard to the previous finding.

In relation to allegation 1 the panel has firstly considered each of the sub-particulars, before considering whether they amount to inappropriate physical contact.

Mr Rodda indicated, in his submissions he provided which was prepared at a meeting he had with his representative on 9 March 2018, that "I agree I had some inappropriate physical contact with one or more pupils".

a. massaging their shoulders and/or back and/or neck;

In his submissions, Mr Rodda denied that he massaged pupils' shoulders although he admitted to touching pupils' shoulders approximately 2 to 3 times a day to get their attention. Mr Rodda stated that this contact is not sexual in nature, nor abusive. Mr Rodda noted that, whilst touching pupils' shoulders, he may have accidentally touched their upper backs, although he cannot remember doing so. He also states that he might have also touched pupils' necks, although he says that this is less likely.

The incident records of Pupil H, Pupil I and Pupil J describe the accounts of these pupils' witnessing Mr Rodda's massaging the shoulders of Pupil H. In addition, the interview notes within the bundle for Pupil H and Pupil P further describe an incident of this nature.

The panel also heard oral evidence in relation to Mr Rodda's massaging the shoulders of Pupil H. In particular, the panel heard video link evidence from Pupil A, that she had seen Mr Rodda's massaging the shoulders of Pupil H in lessons on more than one occasion.

The panel heard telephone evidence from Pupil B. Pupil B stated that he saw Mr Rodda massaging the shoulders of Pupil H on one occasion and that it made him feel uneasy. Pupil B said that he, "clearly saw Mr Rodda massaging Pupil H's shoulders" and that he "remembers it as it was quite obvious to everyone around", and "everyone in the class seemed to have their attention on it".

The panel heard video link evidence from Pupil I who said that he saw Mr Rodda massaging the shoulders of Pupil H on one occasion. Pupil I said that Mr Rodda was "definitely massaging Pupil H's shoulders rather than just touching them".

Pupil P told the panel during video link evidence that she saw Mr Rodda massaging the shoulders of Pupil H on one occasion. She said she also heard Mr Rodda saying "for your age, you shouldn't have so many knots in your shoulders", as he was massaging Pupil H's shoulders. She added that Mr Rodda was "doing it for a very long time", "a good

10 seconds at least, long enough for everyone in the class to notice he was doing it, so not just to get the attention of Pupil H”.

The panel considered all of this evidence, and preferred the evidence of the pupils whose written and oral accounts corroborate one another. The panel therefore consider that, on the balance of probabilities, it was more likely than not to have occurred.

The panel considers the massaging of a pupil’s shoulders by a teacher (in the context in which this occurred) to be inappropriate physical contact with a pupil.

The panel finds allegation 1.a. proven.

b. touching their hair;

Mr Rodda’s submissions confirm that he admits that he “ruffled one of the kid’s hair once”. This is the only occasion Mr Rodda says he recalls touching the hair of a pupil/pupils. He said that he did so (on that occasion) as a way of communicating praise to the pupil.

Mr Rodda accepts that, “with hindsight, [this] was inappropriate contact”.

The panel has written evidence in the form of Pupil H’s incident record, as well as a written record of a discussion between Pupil A and the deputy headteacher.

The panel heard evidence from Pupil A that she saw Mr Rodda ruffling the hair of Pupil G. She added that “Pupil G was Mr Rodda’s favourite”.

Pupil I gave evidence that Mr Rodda came around to his desk and stroked the back of his head. He then demonstrated to the panel via the video link what he meant by using his arms to gesture a stroking movement to the back of his head. Pupil I said that this had happened when Mr Rodda had come over to his desk when he was working and Mr Rodda said to him “are you doing your work” and Pupil I said that he responded, “yes” and Mr Rodda then stroked his head and walked away. Pupil I told the panel that at no point did Mr Rodda make any comment about the quality of Pupil I’s work.

Pupil P gave evidence that she saw Mr Rodda walk up to Pupil H and put his hands either side of Pupil H’s head. She heard Mr Rodda say to Pupil H “if you’re not doing any work I’ll snap your neck”. Pupil P said that she thought it was said in an aggressive manner.

The panel considered all of the evidence, including Mr Rodda’s written comments, and preferred the evidence of the pupils.

The panel considered that Mr Rodda’s touching of a pupil’s hair in this context was inappropriate physical contact with a pupil. This panel therefore found this allegation proven on the balance of probabilities.

The panel finds allegation 1.b. proven.

c. touching their face(s);

Mr Rodda indicated within his submissions that “I don’t think I ever touched a pupil’s face, I don’t remember doing so although I can’t say 100% definite that I didn’t. Touching a pupil’s face would have been inappropriate.”

Pupil H’s incident record states that Mr Rodda touched his face.

The panel also heard oral evidence from Pupil P that she saw Mr Rodda walk up to Pupil H in the classroom, when Pupil H was sitting down, and Mr Rodda put his hands either side of Pupil H’s head. Pupil P said that at the same time as touching him Mr Rodda also said to Pupil H “if you’re not doing any work I’ll snap your neck”. Pupil P said that this was “said in an aggressive manner and context”.

The panel considered all of the evidence from the pupils, including the fact that Mr Rodda was not certain that he did not do what is being alleged, and, on the balance of probabilities, the panel believed that it was more likely than not to have occurred.

The panel considered Mr Rodda’s touching of a pupil’s face in this context to be inappropriate physical contact with a pupil.

The panel finds allegation 1.c. proven.

e. putting his arm(s) around them;

Mr Rodda has indicated within his submissions that “I quite possibly did put my arms round pupils although I don’t know if I did. It probably is too intimate and was inappropriate.”

Pupil G’s incident record within the bundle is hearsay evidence which states that Mr Rodda put his arms around pupils. This hearsay evidence was corroborated by the oral evidence from Pupil A. Pupil A said that she saw Mr Rodda put Pupil H in a headlock.

This evidence, taken together with Mr Rodda’s written submissions that he considered he quite possibly did put his arms around pupils, meant that, on the balance of probabilities, the panel believed that this allegation was more likely than not to have occurred.

The panel considered that Mr Rodda’s putting his arms around a pupil in this context is inappropriate physical contact with a pupil.

The panel finds allegation 1.e. proven.

The panel was satisfied that Mr Rodda’s actions in relation to allegations 1.a, 1.b, 1.c and 1.e are found proven and constitute inappropriate physical contact with pupils.

2. made comments which were inappropriate and/or of a sexual nature to one or more pupils, by making comments including or to the effect of:

In relation to the relevance of the previous finding of fact of May 2016, the panel took into account the legal advice and the presenting officer's submissions. The panel noted that the nature of the allegations in the previous professional conduct panel's findings were similar in nature to the current allegations. It could therefore take the previous findings of fact into account with regard to propensity. However, the panel has made the decision as to whether the facts are proven on the basis of the evidence presented to it in this hearing and has had no regard to the previous finding.

In relation to allegation 2, the panel firstly considered each of the sub-particulars, before considering whether their nature was inappropriate and/or of a sexual nature.

a. "are you going to spit or swallow";

Mr Rodda accepts in his submissions that "I did make the spit or swallow comment, but it was in the context of chewing gum. I know the panel will think this is inappropriate but I don't. I can see it might be interpreted as a sexual comment but I don't think it was. I can see teenage boys would probably take it as sexual though and it was not the best phrase to be using. I don't know if it's a phrase a teacher should be using."

Pupil A, Pupil J, Pupil L, Pupil N and Pupil O all state, in their incident records and accounts, that Mr Rodda said this comment.

Pupil N said when giving her evidence to the panel that Mr Rodda made this comment and that she was sure it was "a deliberate sexual innuendo". She said that after he said it the pupil swallowed the chewing gum and then Mr Rodda said "good boy" and smirked in a "rude way".

In addition, Pupil P gave oral evidence that she heard Mr Rodda say to Pupil G "do you spit or swallow?", or similar. She said that Mr Rodda said this as Pupil G was chewing gum and that Mr Rodda said it in a "sexual way" as he makes lots of sexual comments. She said she could also tell that Mr Rodda said it in a sexual way because the comment was not said as though Pupil G was having a telling off; instead, the tone was rude. Pupil P said that it was also clear that the comment was meant in a sexual way as it is a "term which is used to be stereotypically sexual in nature".

The panel heard oral evidence from the headteacher of the School who said that of all the pupils who took part in the investigation were "adamant" that it was said in a sexual way. The headteacher added that he would not expect his staff to be using terms such as this with pupils of this age group, particularly in the way it was said, as he considered it is inappropriate.

Taking into account Mr Rodda's admission and the pupils' accounts, written and oral, the panel consider, on a balance of probabilities, that the comment was made. The panel

then turned its attention to whether the context within which the comment was made rendered the comment inappropriate and/or of a sexual nature.

After considering the comments from the above pupils, and the fact that one of the pupils described that Mr Rodda smirked as he said it and another mentioned that Mr Rodda did not say it as though he were telling off the pupil chewing gum, the panel concluded that the comment was said in a sexual, and also an inappropriate, way.

The panel therefore finds allegation 2.a. proven.

b. “size does matter and all the boys know it”;

Mr Rodda indicated within his submissions that “I have no recollection of saying this but I honestly don’t know if I said it. It isn’t an appropriate thing to say to pupils. It could easily be interpreted as a sexual comment.”

The panel considered the incident records’ of Pupil K and Pupil N which both allege that Mr Rodda used these words.

The panel heard oral evidence from Pupil N that she heard Mr Rodda say this in the classroom and that, “the way he said it he made it sound rude, that’s why I wrote it down at the time [of making her handwritten account]”.

The panel considered all of the evidence, as well as the fact that the panel considered Pupil N to be a credible and reliable witness and that she gave an honest and accurate account of this incident. Therefore, on the balance of probabilities, the panel concluded that it was more likely than not to have occurred.

Whilst Mr Rodda did not recall saying this, he did acknowledge that it would be sexual in nature and an inappropriate thing to say to pupils. The panel found this comment was inappropriate and sexual in nature.

The panel finds allegation 2.b. proven.

c. “it’s not a relationship if it’s your right hand”;

Mr Rodda said in his submissions that “I have no recollection of saying this. It is the sort of thing I might say to my friends but not to students. I don’t remember saying it to students but sometimes under pressure I might have slipped into saying to students the things I’d say to friends.”

The panel heard during the headteacher’s oral evidence that he was not aware that he, Mr Rodda, was under any pressure and that he could have spoken to his line manager, or any other member of the senior management team, or the head of science, if he had wanted to speak to anyone about any pressures or concerns. The headteacher stated that when he observed Mr Rodda’s teaching of pupils, he considered that Mr Rodda seemed to be “trying to be their friend”.

The panel considered the incident records of Pupil M and Pupil N which set out that Mr Rodda made this comment.

The panel also heard evidence from Pupil N which corroborated Pupil M and Pupil N's written accounts. She stated that she heard Mr Rodda saying "it's not a relationship if it's your right hand" and he was smiling and laughing as he said it as though it were a joke. Pupil N was sure that Mr Rodda was talking about masturbation. She stated that it surprised her as he is a teacher and also because she was, at the time, in a physics or chemistry lesson and not a biology lesson. Pupil N was sure of this as Mr Rodda had never taught her biology. She said that it came out of the blue.

Taking the above evidence into account, in particular that Mr Rodda is unsure as to whether or not he made the comment, the panel found, on the balance of probabilities, that it was more likely than not to have occurred.

The panel considered Mr Rodda's comment to be sexual in nature and inappropriate.

The panel finds allegation 2.c. proven.

d. "it must be my age, I can't get it up";

Mr Rodda admits in his submissions that "I did say something like this when I was having difficulty getting a piece of equipment up and asked a pupil to help. Immediately I had said it I thought I shouldn't have said that, and I moved on as quickly as possible. I knew it was inappropriate and sounded sexual."

The panel has seen the incident record completed by Pupil M which sets out the comment in this allegation.

The panel also saw the investigation report which recorded what the headteacher also told the panel in his oral evidence; that when he interviewed Mr Rodda and asked him about whether he made this comment Mr Rodda denied saying it, and then later changed his mind to say that he may have said it, but if he did that it would have been taken out of context. The panel noted the inconsistency in Mr Rodda's answers at interview.

The panel has taken into account Mr Rodda's admission and considered that, taken with Pupil M's hearsay evidence, on a balance of probabilities, this incident occurred.

The panel considered the comment to be sexual in nature and inappropriate. Mr Rodda admitted that he thought he should not have said it, that it was inappropriate and that it sounded sexual.

The panel finds allegation 2.d. proven.

e. “what I do with my partner is not what I’d do to a student”;

Mr Rodda admits in his submissions that “I did say something very similar to this but I think what I said was “what I do with my partner is not what I’d do with (not “to”) a student. I can’t remember what we were talking about, but I certainly didn’t say it sexually. I can see though that it is too personal and is capable of being misinterpreted.”

The panel considered the incident record of Pupil N which records Mr Rodda’s making this comment.

The panel also heard evidence from Pupil N that Mr Rodda made this comment and that it was said in a “rude way”. Pupil N’s further oral evidence was that this comment was made in the context of a pupil stating that he didn’t want to get Mr Rodda’s cough which made Mr Rodda’s comment seem all the more inappropriate and rude. Pupil N said that Mr Rodda said “its 100% certain that you won’t get my cough, as my partner gave it to me and what I do with my partner is not what I’d do to a student”. Pupil N said she was sure that Mr Rodda deliberately intended this comment to have sexual meaning and innuendo because of the way he said it. She also said that the class also took it to have been said in a sexual way because of the class reaction; the class all laughed. Pupil N added that Mr Rodda definitely did not say “I didn’t mean that in a rude way” or anything after it in order to clarify after the class had all laughed at his original comment, or something like “I didn’t mean it the way it came out”.

The panel considered all of the evidence, and preferred the evidence of Pupil N, and on the balance of probabilities, it believed that it was more likely than not to have occurred in the context described in detail by Pupil N.

The panel found that this comment was sexual in nature and inappropriate.

The panel finds allegation 2.e. proven.

f. “are you looking at his cock, because if you are you will need a microscope”;

Mr Rodda states within his submissions that “I did not say this. It would be a totally inappropriate thing to say.”

The panel considered the incident record of Pupil H, Pupil I and Pupil B which set out that Mr Rodda made reference to a microscope being required when referring to a pupil’s genitals.

The panel heard telephone evidence from Pupil B that Mr Rodda made this comment in a jokey way about Pupil B’s crotch. Pupil B said that despite Mr Rodda’s saying it in a jokey way no one seemed to laugh.

The panel heard evidence from Pupil I who said that Pupil B and Pupil C were having a conversation about something they should not have been talking about when Mr Rodda overheard and said to Pupil B that he would need a microscope to see his private parts. Pupil I said he definitely heard the comment and that most of the class also heard it. Pupil I said that Mr Rodda did not use the words “private parts” but said “you’ll need a microscope to see it”. Pupil I said that after the lesson had finished Pupil B and Pupil C told him what they had been speaking about when Mr Rodda made that comment. They told Pupil I that they had been speaking about the size of their private parts, so it was obvious to Pupil I what Mr Rodda had made his comment about when he said “you’ll need a microscope to see it” to Pupil B. Pupil I said that it seemed to have been said in a, “joking sort of way”.

Pupil P told the panel in her evidence that she does remember Mr Rodda saying something along those lines as she remembers the other pupils talking about it at the time it happened.

The panel considered all of the evidence, and preferred the evidence of the pupils, and, on the balance of probabilities, it believed that it was more likely than not to have occurred.

The panel considers this wording to be sexual in nature and inappropriate.

The panel finds allegation 2.f. proven.

h. telling Pupil C that he had “not hit puberty”;

Mr Rodda states in his submissions that “I don’t remember saying this but it is the sort of thing I might have said. It is inappropriate.”

The panel considered the incident records of Pupil B and Pupil H which both set out that Mr Rodda made the comment about Pupil C not having hit puberty.

These were corroborated by the telephone evidence the panel heard from Pupil B. Pupil B said that he heard Mr Rodda saying something like “one day you’ll hit puberty” to Pupil C, or something along those lines. Pupil B said it shocked him because it was a similar time to when Mr Rodda talked about Pupil B’s crotch and so Pupil B said that he felt like Mr Rodda was “crossing a line”. Pupil B said he did not think it was intended as a joke and seemed to be said in a belittling way.

The panel considered the hearsay evidence of the two pupils, as well as the telephone evidence of Pupil B, and, on a balance of probabilities, considered that it was more likely than not that it occurred.

The panel found the comment to be sexual in nature and inappropriate.

The panel finds allegation 2.h. proven.

i. telling Pupil H he was going to “snap his neck”;

Mr Rodda’s submissions state that “I am pretty sure I did not say this. It is violent. I was bullied myself at school a lot, and wouldn’t do anything like this. It would be out of character. Although it is not sexual, it would be inappropriate.”

The panel considers the incident record of Pupil H and the note of the interviews held with Pupil H and Pupil P, all relate to the wording Mr Rodda is accused of using in relation to snapping a pupil’s neck.

The panel heard evidence from Pupil A that she heard Mr Rodda telling Pupil H that he could snap Pupil H’s neck. Pupil A said that Pupil H was another one of Mr Rodda’s favourites so Mr Rodda talked to him a lot. Pupil A said she thinks Mr Rodda must have said this to Pupil H when he was helping Pupil H with his work. Pupil A said she could tell Pupil H was not comfortable with Mr Rodda’s behaviour when Mr Rodda grabbed his head and said these words.

In her oral evidence, Pupil P told the panel that she saw Mr Rodda walk up to Pupil H when he was sitting down and Mr Rodda put his hands either side of Pupil H’s head and whilst doing so she heard Mr Rodda say to Pupil H “if you’re not doing any work I’ll snap your neck”. Pupil P said that Mr Rodda said it, “in an aggressive manner and context”.

Taking the above evidence into account the panel considered this allegation was proven, on the balance of probabilities.

The panel does not consider that the nature of the comment was sexual but does consider it was inappropriate.

The panel finds allegation 2.i. proven.

j. “there’s nothing there” when referring to a pupil’s genital area;

Mr Rodda admits in his submissions that “I did say this but the context was that a pupil had obviously been using his phone hidden on his lap, with other boys looking at it and laughing. By the time I came up he had put the phone away and I said, “there’s nothing there” – I was pointing out I knew he had been using his phone and I’d caught him and I was giving him a warning.”

The panel noted that Mr Rodda’s comments appear to be unusual if his account is to be believed. If Mr Rodda knew the pupil had been looking at a mobile phone on his lap, which had been put away by the time Mr Rodda had approached the pupil, then the use by Mr Rodda of the words “there’s nothing there” seems to the panel to be incongruous. These words do not readily suggest to the pupil that Mr Rodda thought or knew the pupil had a mobile phone, and nor do they give the pupil any sort of warning or telling off. The panel heard telephone evidence from Pupil B that mobile phones are banned from the School during school time and are meant to be checked in when pupils enter the School

first thing in the morning. So, the comment Mr Rodda alleges was made in the context he describes is also at odds with the fact he would presumably have been aware of the fact pupils should not have mobile phones in their possession. Mr Rodda did not, however, ask the pupil to empty his pockets or ask the pupil whether he had a mobile phone in his possession. It seemed to the panel that no attempts were made by Mr Rodda to confiscate any mobile phone, or even to ascertain if it actually was a mobile phone which the pupil had. This is at odds with his explanation of the context of the comment.

The panel considered the note of a meeting between Pupil A and the deputy headteacher and a written account by Pupil A of the incident, which are within the bundle.

The panel heard evidence from Pupil A that no pupil had a mobile phone out. She said it was a pen with a number on it which the pupils were looking at. She said that Mr Rodda may have thought it could have been a mobile phone but that it was not. Pupil A said that she did not think from what Mr Rodda said, and from how he acted, that he was giving Pupil B a warning about a mobile phone because she said that Mr Rodda said to Pupil C “what’s so interesting about Pupil B’s lap and Pupil C said nothing”, and then Mr Rodda said “yeah that’s right, nothing is there” which Pupil A said, “sounded quite weird”. Pupil A’s further oral evidence was that Mr Rodda made the comment in a “sexual way” and that the other pupils thought the same, as, after it was said Pupil E said to Mr Rodda “can you stop making sexual comments and jokes”. Pupil A further told the panel that Mr Rodda replied, “what jokes?” as if to say it wasn’t a joke but was true”.

The panel also heard telephone evidence from Pupil B, about whom the comment was made. Pupil B stated that Mr Rodda made the comment in a jokey way. Pupil B said that he did not have a mobile phone on his lap and that he does not remember Mr Rodda telling him off about anything, just that Mr Rodda made the comment. Pupil B said that the comment was, “shocking” and that Mr Rodda, “crossed a line” in saying it. Pupil B said, “it was said in a jokey way but no one laughed”.

The panel preferred the accounts provided by Pupil A and Pupil B in their oral evidence to that of Mr Rodda, and the panel considered that, on a balance of probabilities, this event occurred in the manner and context described by the pupils.

The panel considers that the comment is sexual in nature and is inappropriate.

The panel finds allegation 2.j. proven.

k. saying that he would “rather blow shit up”.

Mr Rodda admits in his submission that “The context of me saying this was that we were doing physics whereas I am a biology/chemistry specialist and I was saying I preferred biology/chemistry. Using “shit” was inappropriate, but not the rest of it in context.”

The panel considered the incident record of Pupil N which stated that Mr Rodda had said “he would rather blow shit up”. The panel also heard oral evidence from Pupil N which

was consistent. Pupil N said that this comment was made when Mr Rodda was referring to his preference for teaching chemistry and biology over physics. Pupil N said that she did not think this comment was meant to be sexual, just that it was inappropriate due to the words used.

The panel considered all of the evidence including Mr Rodda's admission, and considered that on a balance of probabilities, it occurred and this allegation was proven.

The panel considered that the comment is not sexual in nature but that it is inappropriate.

The panel finds allegation 2.k. proven.

When considering whether the nature of the facts found proven in relation to allegations 2.a to 2.f and 2.h to 2.k were inappropriate and/or of a sexual nature, the panel took into account the fact that, in their oral evidence, Pupil B, Pupil P and Pupil N commented about their shock and discomfort at Mr Rodda making sexual comments and innuendos and lessons and that his inappropriate behaviour was generally directed at boys in the class. In addition, Pupil A and Pupil N were so concerned about it that they informed their parents who in turn contacted the School.

In addition, the headteacher stated in his oral evidence at the hearing that when he undertook a routine joint observation of a lesson being delivered by Mr Rodda, he noted the amount of extra time and attention Mr Rodda was giving to a small group of boys in the classroom, which the headteacher considered to be unnecessary and which resulted in a distraction from the teaching of the lesson. The headteacher also noted that Mr Rodda was "trying to be a friend rather than be a teacher" to the pupils.

The panel was satisfied that the actions in the allegations it has found proven, namely allegations 2.a to 2.f and 2.h to 2.k, were inappropriate and of a sexual nature, and that, allegations 2.i and 2.k which were found proven and were inappropriate but not sexual in nature.

The panel finds allegation's 2.a to 2.f and 2.h to 2.k proven.

3. acted with lack of professional judgement, including by;

In relation to the relevance of the previous finding of fact of May 2016, the panel took into account the legal advice and the presenting officer's submissions. The panel noted that the nature of the allegations in the previous professional conduct panel's findings were not similar in nature to this allegation. It therefore took no account of them.

In relation to allegation 3 the panel has firstly considered the sub-particulars, before considering whether committing them amounted to a lack of professional judgment.

a. asking for and then borrowing, a lighter from one or more pupils;

Mr Rodda admits in his submissions that “I did ask for and use a lighter (to light a Bunsen burner). It was a mistake to ask. I should have been more prepared. It wasn’t professional. Other people might think I was wrong to do it, but I don’t.”

The panel notes that there were several incident records in the bundle which recorded pupils witnessing Mr Rodda’s asking the class if anyone had a lighter, including the incident records of Pupil C, Pupil I, Pupil G, Pupil K, Pupil L, Pupil N and Pupil O.

The panel heard evidence from Pupil N that Mr Rodda asked the class if anyone had a lighter and one of the girls who smokes handed one to him, and he gave it back to her after he had used it to light a Bunsen burner. Pupil N said “he just gave it back and didn’t question her as to why she had a lighter on her or anything”. Pupil N said there are definitely school rules against smoking. She also said that the girl who lent the lighter to Mr Rodda was 14 or 15 years of age at the time.

The panel considered all of the evidence, and Mr Rodda’s admission, and considered that the event occurred. The panel noted that it represented a lack of professional judgement on the part of Mr Rodda, both in terms of its being illegal for children to smoke and being aware of the pupils’ age, the fact that smoking was banned in school, and the fact that a lighter may be considered to be a dangerous and prohibited item for pupils to be carrying around school.

The panel was satisfied that the actions in allegation 3.a. amounted to a lack of professional judgment as explained above.

The panel finds allegation 3.a. proven.

B. Whilst applying for the role of Teacher at Brookfield Community School and/or following his appointment, he:

4. acted with a lack of integrity and/or was dishonest, in that he provided misleading information and/or failed to disclose relevant information in order to improve his prospects of securing and/or retaining a teaching post, including:

In relation to the relevance of the previous finding of fact of May 2016, the panel took into account the legal advice and the presenting officer’s submissions. The panel took into account the existence of the previous finding of fact but had no regard to the substance of the allegations which were involved.

In relation to allegation 4 the panel has firstly considered each of the sub-particulars, before considering whether they amount to a lack of integrity and/or dishonesty. The panel has also considered whether Mr Rodda had provided misleading information

and/or had failed to disclose relevant information in order to improve his prospects of securing and/or retaining a teaching post.

Mr Rodda admits in his submissions that “I thought that if they knew about the allegations and the NCTL they would not give me a job”. The panel therefore considers that that Mr Rodda’s comments amount to an admission that he knew about the findings and consciously decided to be untruthful and/or misleading in order to secure the post.

a. in or around November 2016 by suggesting that he had left his previous employment due to “Personal reasons”, when he had resigned shortly prior to a Disciplinary Hearing concerning his conduct;

Mr Rodda admits in his submissions that “I did say I had left for personal reasons. I thought my union representative had said that I could say this. I understood that the allegations were all dealt with. I was asked a question on the form, and I gave my point of view, and I did have personal reasons for leaving (relationship breakdown, new head’s changes etc.). I don’t know if saying this showed a lack of integrity. I don’t think I was dishonest.”

The panel considered the evidence within the bundle on this, including the witness statement of the headteacher, Mr Rodda’s Teaching Staff Application Form and a letter accompanying his application.

The panel heard oral evidence from the headteacher that he would not have employed Mr Rodda had he known about the disciplinary hearing Mr Rodda had faced in his previous school. The panel inferred from this that the headteacher was unlikely to have taken Mr Rodda on to the shortlisting stage of the recruitment process had he known about the disciplinary process.

The panel took into account Mr Rodda’s admission as to the fact he did not disclose the fact that he had been through a disciplinary process as he “thought the proceedings had been dealt with”, so stated that the reason for him leaving was due to “personal reasons”.

The panel took into account the advice from the legal adviser stating that the Supreme Court case of *Ivey v Genting Casinos (UK) Ltd* had changed the application of the test of dishonesty in criminal law proceedings. It is now the case that once the defendant’s state of knowledge and belief has been established, whether that state of mind was dishonest or not is to be determined by the application of the standards of the ordinary honest person. It has not yet been considered by the courts whether this test is the correct test to apply in professional discipline cases, but it must be presumed that it is, given that previous advice provided in relation to dishonesty would have been based on the test in *R v Ghosh* which has now been held not to correctly represent the law.

The panel established Mr Rodda’s state of mind to be that he knew, by his own admission, that if he told the truth it would reduce his chances of obtaining the post. The

question whether that conduct was honest or dishonest is then to be determined by applying the standard of an ordinary person. The panel noted that there is no requirement that Mr Rodda must appreciate that what he has done is by those standards, dishonest, just that an ordinary person would think so. The panel considered that an ordinary person would conclude that Mr Rodda's actions were dishonest.

The panel took into account the date Mr Rodda was suspended (6 November 2014), the date he resigned from his previous school (31 January 2015) and the date Mr Rodda was due to attend his disciplinary hearing (3 February 2015). If the change in headteacher had been the reason why Mr Rodda had resigned, as alleged by Mr Rodda, then the panel is unclear why Mr Rodda waited 3 months before submitting his resignation (just 3 days before he was due to attend his disciplinary hearing) when he had already been suspended for 3 months.

The panel has taken into account Mr Rodda's admissions and comments, the documentary evidence before it as well as the headteacher's oral evidence, and on a balance of probabilities, considers that Mr Rodda misled the School and was dishonest in failing to disclose relevant information in order to improve his prospects of securing and/or retaining a teaching post.

The panel also considered whether Mr Rodda's actions amounted to a lack of integrity. The panel noted the advice of the legal adviser and a recent Court of Appeal judgement of *Wingate & Anr v SRA* and *SRA v Malins* (two separate appeals heard together). The panel further noted that the concepts of dishonesty and want of integrity are separate and distinct and that integrity connotes adherence to the ethical standards of one's own profession that involves more than mere honesty. However, it is linked to the manner in which the profession professes to serve the public.

The panel considered that the ethical standards expected of a teacher in the profession would be that a teacher should disclose circumstances which were pertinent and relevant to a job application, including a disciplinary process. The panel concluded that the actions of Mr Rodda demonstrated a lack of integrity.

For the above reasons, the panel finds allegation 4.a. proven.

b. during his interview on or around 13 December 2016, by suggesting that he had left his previous employment as a result of a change of head teacher, when he had resigned shortly prior to a Disciplinary hearing concerning his conduct;

Mr Rodda stated in his note that "I did say this and it is to an extent a lack of integrity. There is truth in it but I was avoiding saying anything about the allegations. It is partially dishonest."

The panel considered the notes taken by the interviewers who interviewed Mr Rodda, the Employee Reference Questionnaire, Mr Rodda's Teaching Staff Application Form, the

letter accompanying Mr Rodda's application, as well as the witness statement of the headteacher.

The panel also heard oral evidence from the headteacher that he would not have appointed Mr Rodda had he known this information.

In relation to allegation 4.b, the panel repeats and relies upon the comments it has made on the legal advice received above in relation to allegation 4.a. The panel considered that Mr Rodda's state of mind was that he knew, by his own admission, that if he told the truth it would reduce his chances of obtaining the job. The panel considered that an ordinary person would conclude that Mr Rodda's actions were dishonest. The panel therefore found Mr Rodda's actions, as described in allegation 4.b. dishonest.

The panel further considered that the standards expected of a teacher in the profession would be that Mr Rodda, as a teacher, should have disclosed circumstances which were pertinent and relevant to this subsequent job application, including a disciplinary process. This, in the panel's view, was further evidence of Mr Rodda demonstrating a lack of integrity.

The panel considered that Mr Rodda deliberately misled the School and failed to disclose relevant information in order to improve his prospects of securing a teaching post.

The panel therefore finds 4.b. proven.

c. during a meeting on or around 22 March 2017, by suggesting that a student had made an allegation which was "proved to be false", despite the fact that in May 2016, a Professional Conduct Panel of the NCTL had made findings of a fact in relation to his conduct toward a student.

Mr Rodda admits in his submissions that "I did say the allegation was proved to be false. I accept that was not true. At the time I said it however I did not know it was not true. I thought it was the truth when I said it. If I was misleading, it was not done deliberately and was at a time of high pressure. The head was taking a bullying approach. If things had been calmer and I had had more time, I would have known it was not true."

The panel took into account the relevant papers within the bundle, including the professional conduct panel outcome decision of May 2016, the witness statement of the headteacher and the note of the investigatory interview.

In determining Mr Rodda's state of mind, the panel noted that Mr Rodda was present to give evidence at the previous professional conduct panel hearing in May 2016 and so the panel is aware that he would have been present when the findings of fact were announced. Mr Rodda would also have received a copy of the panel's decision in writing. Mr Rodda would have therefore been aware that many of the facts of the allegations against him, in relation to the previous professional conduct panel case, were found proven.

The panel noted that it was difficult to understand therefore how Mr Rodda could possibly think that the previous allegations were “proved to be false” when he had been sent a copy of the panel’s findings which indicated that many of the factual elements had been proven. The panel considered that an ordinary person would conclude that Mr Rodda’s actions in making the statement referred to in allegation 4.c. were dishonest.

The panel further considered that the ethical standards expected of a teacher in the profession would be that Mr Rodda, as a qualified teacher, should have to disclose accurate and truthful information about any previous allegations upheld against him. This, in the panel’s view, was further evidence of Mr Rodda’s demonstrating a lack of integrity.

The panel further determined that Mr Rodda’s actions were an attempt to mislead the School and failed to disclose relevant information in order to improve his prospects of retaining a teaching post.

The panel finds 4.c. proven.

The panel was satisfied that the actions in allegation 4.a., 4.b. and 4.c. amounted to a lack of integrity and dishonesty, and that Mr Rodda was misleading and failed to disclose information in order to improve his prospects of securing and/or retaining a teaching post.

The panel finds allegation 4. proven.

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

1. engaging in inappropriate physical contact with one or more pupils, including by:

d. touching their hands

Mr Rodda indicated within his submission that “I probably did touch pupils hands, in the same spirit I touched their shoulders. I don’t know if it was inappropriate. It probably was too tactile. I was opening myself up to allegations.”

The panel considered the written incident record of Pupil G which stated that Mr Rodda touched pupils’ hands; however, it did not identify which pupils had been touched. Pupil G did not provide any oral evidence.

The panel considered all of the evidence, and also the fact that Mr Rodda stated in his submission that he probably did touch the hands of pupils.

As the panel did not hear any oral evidence relating to this allegation, and as no specific examples of pupils were provided in the hearsay evidence in the bundle, the panel considered there was insufficient evidence to find this allegation proven on the balance of probabilities.

The panel does not find allegation 1.d. proven.

2. made comments which were inappropriate and/or of a sexual nature to one or more pupils, by making comments including or to the effect of:

g. “are you tired from watching too much porn?”

Mr Rodda states in his submissions that “I don’t remember saying this but it is possible that I might have commented on a pupil being tired with some innuendo in my voice as I said something like “what were you doing up late”.”

As there is no clear admission by Mr Rodda, and as there is no corroborating evidence for the hearsay evidence of Pupil O, the panel was not satisfied that this allegation was proven, on a balance of probabilities.

The panel therefore does not find 2.g. proven.

3. acted with lack of professional judgement, including by;

b. discussing his smoking habits with one or more pupils.

Mr Rodda stated in his submissions that “I had been smoking in the break. Students smelt cigarette smoke on me. They asked me if I smoked and I said yes and moved on quickly, as the best way of dealing with the situation.”

The panel noted that the only evidence of this aside from Mr Rodda’s above account was the incident record of Pupil K, which had not been corroborated by any other evidence in the bundle or by any oral evidence.

The panel therefore considered that it did not have enough evidence to substantiate whether Mr Rodda had discussed his smoking habits.

The panel finds 3.b. not proven.

Findings as to unacceptable professional conduct

Having found all of the allegations other than allegations 1.d., 2.g. and 3.b. to have been proven, the panel has gone on to consider whether the facts of those that are proven amount to unacceptable professional conduct.

In doing so, the panel has had regard to the document Teacher Misconduct: The Prohibition of Teachers, which the panel refers to as “the Advice”.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position;
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions;
 - showing tolerance of and respect for the rights of others.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- 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 Rodda amounts to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel has also considered whether Mr Rodda’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 dishonesty is relevant. The panel has set out its findings as to dishonesty in relation to its findings of fact referred to, above.

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.

Accordingly, the panel is satisfied that Mr Rodda is guilty of unacceptable professional conduct.

Panel’s recommendation to the Secretary of State

Given the panel’s findings in respect of unacceptable professional conduct, it is necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

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

The panel has considered the particular public interest considerations set out in the Advice and, having done so, has found a number of them to be relevant in this case, namely the protection of pupils, the maintenance of public confidence in the profession and the regulatory process, and declaring and upholding proper standards of conduct.

The panel found that Mr Rodda had had inappropriate physical contact and made inappropriate and/or sexual comments to pupils, that he was dishonest and that he lacked integrity when applying for, and securing, a teaching post. Therefore, there is a strong public interest consideration in respect of the protection of pupils, given these serious findings. Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Rodda were not treated with the utmost seriousness when regulating the conduct of the profession. The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present, as the conduct found against Mr Rodda 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 Rodda.

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 Rodda. 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;
- ...other deliberate behaviour that undermines pupils, the profession, the school or colleagues.

Even though the behaviours referred to above 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. There was no evidence to suggest that Mr Rodda was acting

under duress, and in fact the panel found Mr Rodda's actions to be calculated and motivated. The panel has seen evidence that Mr Rodda was previously subject to a professional conduct panel's finding of fact, which related to an almost identical pattern of behaviour.

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 and the continuing risk.

The panel is of the view that prohibition is both proportionate and appropriate. The panel has decided that the public interest considerations outweigh the interests of Mr Rodda. The nature of the allegations which resulted in Mr Rodda's exercising inappropriate behaviour towards pupils, including using sexual innuendos as well as inappropriate physical contact with pupils, were significant factors in forming that opinion. Accordingly, the panel makes a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend that a review period of the order should be considered. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than two 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 found that Mr Rodda has had inappropriate physical contact with pupils, made comments to pupils which were sexual and/or inappropriate in nature, has been dishonest and has demonstrated a lack of integrity. The panel noted that the dishonesty was repeated on a number of occasions and over a significant period of time, and that Mr Rodda had had opportunities to reveal the true situation, but had not done so.

Mr Rodda also showed a lack of integrity in that the panel found that the ethical standards expected of a qualified teacher are to be truthful. He, therefore, should have disclosed accurate and truthful information about the previous allegations which were upheld against him in May 2016.

The panel heard evidence from some pupils that they "felt uncomfortable" and were "shocked" by Mr Rodda's behaviour in class. One pupil in particular said that she had

never seen any other teacher behave in such a way. The panel therefore noted that Mr Rodda's actions have had a detrimental and negative effect on pupils.

Mr Rodda has not, to the panel's knowledge, shown remorse or regret for his behaviour. He has also not (so far as the panel is aware) apologised for his behaviour. Instead, he has sought to defend the actions the panel has found proven. For example, in relation to one allegation Mr Rodda says "other people might think I was wrong to do it, but I don't", in the context of his borrowing and handing back a cigarette lighter to a 14 or 15 year old pupil in school. In relation to some of the allegations Mr Rodda has acknowledged, in relation to a limited number of the instances, that he should not have undertaken the physical contact or made the comments. However, in almost every instance where he has provided an acknowledgement that it was sexual and/or inappropriate, he has sought to justify it by saying that his actions/words were misinterpreted or misunderstood. The panel considers that Mr Rodda has failed to demonstrate sufficient insight into the inappropriateness of his actions and behaviour towards pupils.

In terms of future risk, the panel noted that Mr Rodda had exhibited a similar pattern of behaviour to the that found proven in the previous professional conduct panel hearing in May 2016. Whilst the panel did not rely on the previous findings of fact in coming to its decision in this case (only to the extent it has set out above), the panel has considered those findings in reaching its conclusion that it cannot be confident that Mr Rodda would not repeat this pattern of behaviour in the future. In addition, the panel heard evidence from one pupil that another pupil in her class had asked Mr Rodda, after he had made an inappropriate comment of a sexual nature "please can you stop making sexual comments?" However, Mr Rodda continued to make inappropriate comments of a sexual nature despite the pupil's request.

The panel concluded 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 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 all of the allegations proven except for A1d, A2g, and A3b. Where the panel has found the facts proven it has found those proven facts amount to unacceptable professional conduct. For those instances where the panel has not found the facts proven, I have put those matters entirely from my mind. The panel has made a

recommendation to the Secretary of State that Mr Rodda should be the subject of a prohibition order, with no provision for a review period.

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

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

In this case, the panel has also considered whether Mr Rodda'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 dishonesty is relevant. The panel has set out its findings as to dishonesty in relation to its findings of fact referred to".

The findings of misconduct are, accordingly, particularly serious as they include the above finding of dishonesty.

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 Rodda, 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 Rodda has had inappropriate physical contact with pupils, made comments to pupils which were sexual and/or inappropriate in nature, has been dishonest and has demonstrated a lack of integrity."

A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse which the panel sets out as follows, "Mr Rodda has not, to the panel's knowledge, shown remorse or regret for his behaviour. He has also not (so far as the panel is aware) apologised for his behaviour. Instead, he has sought to defend the actions the panel has found proven." In my judgement the lack of insight means that there is some risk of the repetition of this behaviour and this risks the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe of his behaviour that it was "outside that which could reasonably be tolerated."

I am 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 Rodda himself.

A prohibition order would prevent Mr Rodda from teaching and 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 it, "has seen evidence that Mr Rodda was previously subject to a professional conduct panel's finding of fact, which related to an almost identical pattern of behaviour."

I have placed considerable weight on the finding of the panel concerning dishonesty and the repeated pattern of behaviour.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Rodda 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 that the prohibition order should be subject to no review period.

I have considered the panel's comments "In terms of future risk, the panel noted that Mr Rodda had exhibited a similar pattern of behaviour to that found proven in the previous professional conduct panel hearing in May 2016. Whilst the panel did not rely on the previous findings of fact in coming to its decision in this case (only to the extent it has set out above), the panel has considered those findings in reaching its conclusion that it cannot be confident that Mr Rodda would not repeat this pattern of behaviour in the future. In addition, the panel heard evidence from one pupil that another pupil in her class had asked Mr Rodda, after he had made an inappropriate comment of a sexual nature "please can you stop making sexual comments?" However, Mr Rodda continued to make inappropriate comments of a sexual nature despite the pupil's request."

The panel has also said that allowing for no review period is appropriate and proportionate.

I have therefore myself 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 a no review order is necessary. These elements are the dishonesty found, the lack of either insight or remorse, and the repeated behavioural pattern.

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

This means that Mr Mark Rodda 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 Mark Rodda 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 Mark Rodda 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: Alan Meyrick

Date: 20 April 2018

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