



Teaching
Regulation
Agency

Mr Richard Pate: Professional conduct panel outcome

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

July 2022

Contents

Introduction	3
Allegations	4
Preliminary applications	5
Summary of evidence	5
Documents	5
Witnesses	6
Decision and reasons	6
Findings of fact	7
Panel's recommendation to the Secretary of State	18
Decision and reasons on behalf of the Secretary of State	21

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

Teacher:	Mr Richard Pate
Teacher ref number:	0686440
Teacher date of birth:	3 April 1982
TRA reference:	19550
Date of determination:	7 July 2022
Former employer:	St Augustine's Roman Catholic School

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 4 to 7 July 2022 by way of a virtual hearing, to consider the case of Mr Richard Pate.

The panel members were Mrs Julie Beck (lay panellist – in the chair), Mr Adnan Qureshi (lay panellist) Mr John Martin (teacher panellist).

The legal adviser to the panel was Ms Natalie Kent of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Louisa Atkin of Capsticks LLP solicitors.

Mr Pate was present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 21 July 2021.

It was alleged that Mr Pate was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst a teacher at St Augustine's Roman Catholic School ('the School'):

1. Between around 2017 and July 2018, he failed to observe a proper boundary appropriate to a teacher's professional position in that he:
 - a) provided 1:1 exam tuition to Pupil A;
 - b) commented on Pupil A's physical appearance;
 - c) told Pupil A she had a "gorgeous smile" or words to that effect;
 - d) touched Pupil A's arm;
 - e) hugged Pupil A;
 - f) gave Pupil A a book with a personalized message;
 - g) gave Pupil A a story about an intern and a boss who had a relationship;
 - h) referred to himself as the 'boss' in the story at (g) above and referred to Pupil A as the 'intern' or words to that effect; and
 - i) told Pupil A she looked "stunning" or words to that effect.
2. His conduct at any or all of 1(a) to 1(i) above was sexually motivated.
3. Between around September 2018 and June 2019 he:
 - a) sent one or more letters to Pupil A;
 - b) sent text messages to Pupil A;
 - c) sent emails to Pupil A from his work and / or his personal email address;
 - d) sent a card to Pupil A with the caption "I literally can't keep my hands off you" or words to that effect;
 - e) met with Pupil A on one or more occasions;
 - f) went to the cinema with Pupil A;

- g) went for one or more walks with Pupil A;
 - h) engaged in a 'Panic Room' activity with Pupil A;
 - i) kissed Pupil A; and
 - j) engaged in sexual touching with Pupil A.
4. His conduct at any or all of 3(a) to 3(j) above was sexually motivated.
 5. On or about 14 December 2018, he was absent from School and the reason given by him and / or recorded by the School was sickness, when in fact the reason for his absence was to meet Pupil A.
 6. On or about 23 April 2019, he was absent from School and the reason given by him and / or recorded by the School was that his child was unwell, when in fact the reason for his absence was to meet Pupil A.
 7. His conduct at 5 and/ or 6 above was dishonest.

Mr Pate admitted the facts of allegations 1(b), 1(c), 1(e), 1(f), 1(g), 1(i), 3(a), 3(b), 3(c), 3(d), 3(e), 3(f), 3(g), 3(h), 3(i), 3(j), 5, 6 and 7, as set out in the response to the notice of proceedings signed by Mr Pate on 11 March 2021. Mr Pate denied the facts of allegations 1(a), 1(d), 1(h), 2 and 4.

Mr Pate further admitted that the facts of those admitted allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

Summary of evidence

Documents

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

- Section 1: Chronology, anonymised pupil list and list of key people – pages 3 to 6
- Section 2: Notice of proceedings and response – pages 7 to 23
- Section 3: Teaching Regulation Agency witness statements – pages 24 to 38

- Section 4: Teaching Regulation Agency documents – pages 39 to 175
- Section 5: Teacher documents – pages 176 to 182

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

Witnesses

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

- Witness A [redacted]
- Witness B [redacted]
- Witness C [redacted]

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Pate commenced his role as a teacher of English at the School on 1 September 2008.

Mr Pate taught Pupil A during Key Stage 4 and also provided extra tuition to Pupil A during lunchtimes between May 2017 and June 2017. Mr Pate resumed one to one tuition with Pupil A during lunchtimes and after school between April 2018 and June 2018.

In June 2018, Mr Pate gave Pupil A a story written by him.

On 20 June 2018, Pupil A attended her school prom, at which Mr Pate was present.

On 29 June 2018, Pupil A left the School.

On 7 November 2018, there was a celebration evening at the School, following which Pupil A initiated email correspondence with Mr Pate.

Between December 2018 and June 2019, Mr Pate and Pupil A met on more than 10 occasions during this period.

On 14 December 2018, Mr Pate was absent from school to meet Pupil A; his reason given for his absence was sickness.

On 23 April 2019, Mr Pate was absent from school to meet Pupil A; his reason given for this absence was that his child was unwell.

On 7 June 2019, Pupil A accidentally sent a text message intended for Mr Pate to her father.

On 10 June 2019, Pupil A's father contacted the School to inform them of the relationship between Mr Pate and Pupil A. On the same day Mr Pate voluntarily made a verbal disclosure regarding a relationship which he had with Pupil A to Witness C.

Mr Pate was later suspended pending a formal investigation into allegations by the School. The School also referred the matter to the LADO.

On 19 June 2019, Pupil A provided a statement for the School's investigation.

On 17 July 2019, the School held a disciplinary investigation meeting with Mr Pate.

On 2 October 2019, the National Education Union ('NEU') submitted a document on behalf of Mr Pate. A meeting was held by the disciplinary and dismissal committee. The outcome of the meeting was sent by letter to Mr Pate on 4 October 2019.

The matter was referred to the DBS on 8 November 2019. The matter was closed by the LADO, on 12 November 2019, as a substantiated allegation, following the disciplinary hearing.

Findings of fact

The findings of fact are as follows:

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

1. Between around 2017 and July 2018, you failed to observe a proper boundary appropriate to a teacher's professional position in that you:

- a) provided 1:1 exam tuition to Pupil A;**
- b) commented on Pupil A's physical appearance;**
- c) told Pupil A she had a "gorgeous smile" or words to that effect;**
- d) touched Pupil A's arm;**
- e) hugged Pupil A;**
- f) gave Pupil A a book with a personalized message;**

- g) gave Pupil A a story about an intern and a boss who had a relationship;**
- h) referred to yourself as the ‘boss’ in the story at (g) above and referred to Pupil A as the ‘intern’ or words to that effect; and**
- i) told Pupil A she looked “stunning” or words to that effect.**

The panel noted that within the response to the notice of proceedings, Mr Pate admitted the facts of allegations 1(b), 1(c), 1(e), 1(f), 1(g), and 1(i). Nonetheless, the panel made a determination based on the facts and the evidence available to it.

The panel heard oral evidence from Mr Pate and considered his statement as prepared with the assistance of the NEU for the School’s disciplinary investigation in or around September 2019 and also his letter to the TRA, dated 28 December 2020.

The panel was also provided with the statement of Pupil A dated 19 June 2019 which was recorded by Witness A. Whilst the panel was aware that Pupil A’s statement was to be treated as hearsay evidence due to Pupil A not appearing to give evidence before the panel, the panel was mindful that Mr Pate had, on several occasions, stated that he did not disagree with the contents. The contents of Pupil A’s statement, which was provided shortly after the events had come to light, was very similar to that which had been verbally disclosed by Mr Pate to Witness C. On this basis the panel was satisfied that it was fair to admit Pupil A’s statement and made a determination of the weight placed upon it in accordance with the unchallenged nature of the statement and the panel’s belief that Pupil A had no reason to be dishonest. In addition, the panel were mindful that Mr Pate accepted that Pupil A had no reason to make accusations against Mr Pate that were not true.

Mr Pate also submitted as part of the disciplinary proceedings, 3-character reference statements which the panel were provided with within the bundle. The panel was mindful that these could be taken into account in respect of Mr Pate’s credibility.

Mr Pate submitted that he provided 1:1 tuition, as well as group tuition, to several pupils; Pupil A was included in this. Mr Pate submitted that 1:1 tuition was, in his experience, a *“legitimate and effective tool for delivering pupil progress.”* Mr Pate therefore contended that, at least at the commencement of this arrangement, this was not, as stated within the allegation, a failure *“to observe a proper boundary appropriate to a teacher’s professional position.”* However, Mr Pate did accept that there did come a stage where he would *“agree in part”* that to continue the 1:1 tuition in circumstances where Pupil A no longer felt she required it and where he had developed a *“fondness”* for her, did constitute a failure to maintain appropriate boundaries.

Mr Pate submitted that any reference made to Pupil A’s physical appearance would have been a casual, off-the-cuff remark as a friendly, welcoming comment to build rapport and

confidence. Mr Pate had been Pupil A's regular English teacher throughout Key Stage 4 and the panel therefore felt that comments upon her physical appearance to build rapport would not have been necessary. In any event, the panel felt that Mr Pate's comments about Pupil A's appearance suggested that Mr Pate had found Pupil A physically attractive.

Mr Pate could not recall touching Pupil A's arm. However, in his oral evidence Mr Pate accepted that there was "*certainly a possibility*" that this had occurred as Pupil A had said it had within her statement given to the School. The panel was provided with photos within the bundle and the panel was satisfied that at least one of these shows Mr Pate with his arm around Pupil A in the classroom. Mr Pate submitted that at times he made a conscious effort to distance himself physically from Pupil A in the 1:1 sessions by sitting at his desk and requiring her to sit at a table in the body of the classroom. Pupil A said in her statement, "*He would sit next to and sometimes touch my arm and put his arm round me as a friendly hug,*" which the panel found credible. The panel noted that there was likely therefore to have been times when this physical distance was not present and this accords with Pupil A's statement that Mr Pate sat next to her and may have, on occasions, touched her arm.

Mr Pate explained that the only occurrence where he had hugged Pupil A was on her final day of school. The panel heard evidence from witnesses that this was not uncommon giving the heightened emotions of pupils and teachers during the pupils' final day of school.

In relation to the personalised message in the book, Mr Pate stated that over his 14 years of teaching there have been a number of pupils to whom he has given a copy of the same book with an inscription written inside. In reference to Mr Pate's comment to Pupil A saying that she had a gorgeous smile, Mr Pate stated that this was made within this inscription written in the book. Within his oral testimony Mr Pate stated that he regretted writing that Pupil A had a gorgeous smile but that he stood by the remainder of the message and stated that he "*wouldn't describe it as inappropriate, necessarily.*" Within the inscription was also a comment which read, "*you know where I'll be If you need me*" which the panel felt left the door open for further contact between Mr Pate and Pupil A.

Mr Pate admitted that his action in giving Pupil A a story about a boss who had strong feelings for his intern, was wholly inappropriate and misguided. The story was about "*how the senior colleague chose to restrain himself from disclosing his feelings for the junior member as oppose to declaring them.*" Mr Pate further submitted that the story was "*an outlet for me to try and process the emotions I had been experiencing at what was a very foreign and confusing time.*" However, Mr Pate denied allegation 1(h). He had no recollection of having referred to himself as the boss and Pupil A as the intern, although he did accept in cross-examination that it may have occurred, he just did not recall. The panel accepted Pupil A's account that Mr Pate described himself as the boss and her as

the intern within the story in a conversation which took place after the story had been given to her.

Mr Pate admitted that he made a comment about Pupil A's appearance at the leavers' ball. However, he submitted that he also commented on the appearance of a number of pupils, both male and female. Pupil A submitted in her statement that Mr Pate had whispered in her ear that she looked "*stunning*," which the panel accepted.

The panel noted the witness statement and oral evidence of Witness A. Witness A submitted that on 10 June 2019, he arrived at the School and was met by one of the deputy headteachers, Witness C, who informed him that a member of staff had made a disclosure about inappropriate conduct with a former pupil.

Witness A explained that Witness C explained to him that Mr Pate had arrived at the School that morning flustered and saying that he had made a mistake in that he had been having a relationship with a former pupil, Pupil A. Mr Pate explained that he had been providing one to one support to Pupil A and that during that time he felt he got on well with Pupil A. Mr Pate admitted that whilst Pupil A was a pupil at the School, he had strong feelings for her and had acted on this after the pupil had left the School. Mr Pate disclosed to Witness C that "*he had had some sexual contact with Pupil A, but had not had sex with her.*"

Witness A submitted that on the same morning, he was also made aware that Pupil A's father had spoken to the other deputy headteacher, Witness B, and had raised concerns about his daughter's relationship with Mr Pate. Pupil A's father stated that his daughter had been "groomed" by Mr Pate. Witness B informed Witness A of the allegations made.

Witness B told Witness A that Pupil A's father referred to the 1:1 tuition provided by Mr Pate to Pupil A, which Pupil A's father had believed had been with others. Mr Pate had told Witness C that this 1:1 tuition was what had started their relationship. Witness A suspended Mr Pate pending a further investigation into the disclosure Mr Pate had made and the allegations of "grooming" made by Pupil A's father.

Upon carrying out an investigation, Witness A reviewed Mr Pate's email trail and his area of the School network. A number of photographs were found which Witness A "*considered odd*," as they were a selection of photographs of a number of pupils. At least one of the photographs was an image of Mr Pate with his arm around Pupil A in his classroom and had been taken on a self-timer with no other persons present.

Witness A held a meeting with Pupil A and Pupil A's mother. Pupil A explained that she had become "*close*" with Mr Pate whilst she was a pupil at the School, explaining that Mr Pate provided extra support lessons for her alone, which she had recognised as "special treatment." Witness A explained that Pupil A stated that during these sessions, Mr Pate started to make comments of a personal nature, gave Pupil A a book with a personalised

message in it and gave her a story about a boss who had feelings for his intern. Pupil A alleged that Mr Pate had told her that he was the boss, and she was the intern, effectively telling her that he had feelings for her. During the interview, Pupil A produced the book that Mr Pate had gifted to her, with a long personalised message on the inside page.

On reviewing the message, Witness A was concerned about some of the comments, in particular that Pupil A had not *“got that gorgeous smile for nothing”* and ending the message with the phrase *“with love Mr Pate x.”* Witness A contended that he found this, *“particularly concerning as it was clear evidence that the Teacher had started to develop a relationship, or at least encourage the feeling of a relationship developing whilst Pupil A had still been on the School roll.”* Pupil A further explained to Witness A that prior to her leaving the School, Mr Pate had given her a hug, and at the prom he commented that she *“looked stunning.”*

Within his oral evidence, Witness A submitted that it was *“not entirely unusual”* for extra tuition to be provided in the lead up to exam season. However, in the interests of efficiency, these sessions would be on an *“open invitation”* basis to as many pupils as possible. He continued that usually a teacher would only be providing 1:1 tuition if others that had been asked to attend had not turned up, effectively by accident. Witness A submitted that he was not aware of the 1:1 tuition which Mr Pate was providing to Pupil A. In Witness A’s view, *“this had been hidden from the wider school community”* as other staff, pupils and Pupil A’s parents were not aware.

The panel considered the witness statement and oral evidence of Witness B. Witness B submitted that she first became aware of the allegations against Mr Pate when she spoke with Pupil A’s father. Pupil A’s father stated that his daughter had been “groomed.” Pupil A’s father had seen a text message from Pupil A by accident, which was meant for Mr Pate. Pupil A’s father also explained that he found a book with a signed inappropriate message from Mr Pate to Pupil A, and a card which was written in the same handwriting. Witness B reported what she had been told to Witness C.

Within her oral evidence, Witness B submitted that the advice given to teachers in respect of 1:1 tuition is that they should not be in a room alone with a pupil unless the door is open and that they must let other staff know. Witness B also submitted that teachers were told to not put themselves in a situation where things could be misinterpreted.

The panel considered the witness statement and oral evidence of Witness C. Witness C submitted that she was first made aware of the allegations against Mr Pate when she arrived at the School on 10 June 2019 and was informed by Witness B of the phone call, she had had with Pupil A’s father. After Witness B had left the room, Witness C submitted that Mr Pate entered her office and said that he needed to speak to her. Mr Pate admitted that he had been seeing a former pupil of the School, Pupil A.

Witness C submitted that Mr Pate explained that he had provided extra tuition to Pupil A when she was struggling with her work at the end of Year 10. Mr Pate then recalled that when Pupil A was in Year 11, he provided 1:1 sessions to support her in the run up to her GCSE exams. Mr Pate explained that following Pupil A leaving the School, and him sending her the prom photos, he and Pupil A did not have any contact over the summer of 2018. Mr Pate had the opportunity to catch up with Pupil A at the School's celebration evening on 7 November 2018 and felt that "*he wanted more*" and that Pupil A had felt the same way.

In light of the teacher's admissions and the evidence of the witnesses before them, the panel found that on the balance of probabilities, it was more likely than not that the incidents as alleged had occurred. With the exception of the 1:1 exam tuition which took place in Year 10 in 2017, the panel was satisfied that each of the allegations at 1(a) to (i) constituted a failure to observe a proper boundary appropriate to a teacher's professional position. Accordingly, the panel found allegations 1(a) to (i) proven.

2. Your conduct at any or all of 1(a) to 1(i) above was sexually motivated.

The panel noted that within the response to the notice of proceedings, Mr Pate denied allegation 2.

The panel noted Mr Pate's letter to the TRA 28 December 2020 in which he submitted that at no point in the relationship was physical, sexual contact a motivating factor. Mr Pate expressed that his feelings for Pupil A developed because of who she is: her personality, style, values and interests. Mr Pate felt that he had an emotional connection with Pupil A, who meant a lot to him.

The panel heard oral evidence from Mr Pate in which he stated that his actions "*were not driven by sexual intention but purely by an overwhelming and encompassing sense of joy brought through emotional companionship.*"

The panel heard legal advice and in particular in respect of the judgment of ***Sait v The General Medical Council [2018] EWHC 3160 (Admin)*** in which Mr Justice Mostyn set out the correct approach to allegations of sexually motivated conduct. Mr Justice Mostyn referred approvingly to section 78 of the Sexual Offences Act 2003 as a comprehensive definition of what conduct is, or is not, to be regarded as 'sexual'. This states, "*For the purposes of this Part (except section 71), penetration, touching or any other activity is sexual if a reasonable person would consider that (a) whatever its circumstances or any person's purpose in relation to it, it is because of its nature sexual, or (b) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual.*"

The panel also heard legal advice in respect of sexual motivation and the 2 cases of ***Basson v General Medical Council [2018] EWHC 505 (Admin)*** and ***General Medical***

Council v Haris [2020] EHC 2518. The panel was provided with the meaning of sexual motive in **Basson**, “A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship.” The panel was also provided with the conclusion in **Haris** that, “In the absence of a plausible innocent explanation for what he did, the facts spoke for themselves. A sexual motive was plainly more likely than not; I would go so far as to say that that inference was overwhelming.”

Within his oral testimony, Mr Pate accepted that the journey which he had travelled, in terms of his feelings, began as a professional relationship which moved into a platonic friendship and then into a romantic relationship characterised by companionship and sometimes passion. Mr Pate submitted that as the 1:1 sessions progressed in 2018, he “began to feel a certain way”. Mr Pate further stated that during Pupil A’s final weeks at school he developed “a strong sense of care towards Pupil A” and recognised that he had become “very fond of her”. He added that his “feelings were very strong” and that there was “a sense of joy in feeling a connection with someone.” Mr Pate told the panel how the only clear thing in his confused personal state in early June 2018 was the “genuine joy” that he was experiencing and that “it was an immersion in joy as if joy was something you could swim in.”

However, Mr Pate felt that the point at which the feelings developed romantically was not until January/February 2019.

The panel was mindful that sexual motivation often cannot be proven by direct evidence but could be proven only by inference and deduction.

Having considered the relevant case law within the circumstances, the panel formed a view that when viewed in isolation, there may have been a “plausible innocent explanation” for some of the allegations 1(a) to (i). However, the panel felt that when taken in totality, on the balance of probabilities, the conduct within allegations 1(a) to (i) could reasonably be inferred to have been in the pursuit of a romantic relationship, which may well have developed into a sexual relationship.

Accordingly, the panel found allegation 2 proven.

3. Between around September 2018 and June 2019 you:

- a) sent one or more letters to Pupil A;**
- b) sent text messages to Pupil A;**
- c) sent emails to Pupil A from your work and / or your personal email address;**
- d) sent a card to Pupil A with the caption “I literally can’t keep my hands off you” or words to that effect;**
- e) met with Pupil A on one or more occasions;**

- f) went to the cinema with Pupil A;**
- g) went for one or more walks with Pupil A;**
- h) engaged in a 'Panic Room' activity with Pupil A;**
- i) kissed Pupil A; and**
- j) engaged in sexual touching with Pupil A.**

The panel noted that within the response to the notice of proceedings, Mr Pate admitted the facts of allegations 3(a) to(j). Nonetheless, the panel made a determination based on the facts and the evidence available to it.

The panel noted Mr Pate's letter to the TRA dated 28 December 2020, and the oral evidence provided at the hearing. Mr Pate submitted that he sent one letter to Pupil A in response to her initial email and also sent emails to Pupil A from both his work and his personal email accounts, which he admitted was contrary to school policy.

Mr Pate explained that the text messages he sent to Pupil A were in response to her supplying, completely unsolicited, her mobile phone number, and at no point were any of the text messages sexual in nature. This was endorsed by Pupil A in her statement.

Mr Pate, to the best of his recollection, recalled that some of the emails exchanged were from his work email address following the leavers' ball in June. Upon receiving an email from Pupil A, stating that she felt their conversation on celebration evening had been too short, he agreed with the sentiment and responded using his personal account.

Mr Pate submitted that the card given to Pupil A was a valentine card and that Pupil A laughed at the card taking it in the humorous way in which it was intended. The panel formed a view that the sentiment of the valentine card, which stated, "*I literally can't keep my hands off you*" and the fact that the card was signed off with "*love you always*" was indicative of how Mr Pate felt about Pupil A. This was supported by the evidence provided by Mr Pate that their relationship had developed into a physical, sexual relationship and his concession that he was in love with Pupil A.

Mr Pate admitted that he met with Pupil A. On the first occasion, they had agreed to meet in response to the communication which Pupil A had sent to him after the celebration evening. Mr Pate claimed that this was 2 people meeting up as friends. Mr Pate admitted that he went to the cinema with Pupil A and submitted that up until this point the meetings had mainly taken place outdoors or in his car, so a change of venue was welcomed. Mr Pate also admitted that he went for one or more walks with Pupil A, in which they would discuss food, films, and family; the usual sort of things he believed anyone would discuss with a friend. The panel thought it significant that the venues for the meetings were

selected for their secrecy in the hope that they would not be recognised, and their relationship discovered.

Mr Pate admitted that he engaged in a panic room activity with Pupil A. Mr Pate recalled that Pupil A mentioned she had never done a panic room activity before, and therefore they tried one.

Mr Pate admitted that he kissed Pupil A. This took place at the end of a meeting they had in December 2018, after spending the day together enjoying each other's company. Mr Pate also admitted that on a number of subsequent meetings, they kissed.

Mr Pate explained that any physical side of the relationship was reciprocal and mutual. On occasions, kissing did become passionate and there was some '*over-the-clothes*' touching from both himself and Pupil A. Mr Pate stated that at no point did this develop into anything further and during his oral testimony he stated that "*it was a conscious choice not to develop anything further.*"

The panel noted the witness statement and oral evidence of Witness A. Pupil A showed Witness A a card that Mr Pate had given her during the period of time they were meeting up, which he understood to be around Valentine's Day 2019. On the front of the card was the message "*literally can't keep my hands off you.*"

In light of the admissions of Mr Pate in both his written evidence and oral testimony, the panel found allegations 3(a) to (j) proven.

4. Your conduct at any or all of 3(a) to 3(j) above was sexually motivated.

Mr Pate denied that any form of sexual satisfaction was a motivating factor in the relationship. Mr Pate submitted that the foundation of the relationship was a deep emotional connection. He told the panel how, "*as the relationship developed so did the feeling of happiness*" and said that during the course of February 2019, he had "*developed feelings of love for her and that love for her remains*" with him today. Mr Pate further stated how, "*there's not a day goes by when I don't think of her.*"

Mr Pate accepted that it was likely that 4 or 5 times out of the approximately 10 times which he and Pupil A had met, they had held hands. He also accepted that on around three-quarters of those occasions, they would kiss but that this would vary in the form. Mr Pate stated that sometimes this would be a peck on the cheek but that there were instances "*where things became a little more passionate.*" Within his oral evidence, Mr Pate stated that they had engaged in "French-kissing" and that he had kissed Pupil A on the neck.

During Mr Pate's oral testimony, he accepted that he had touched Pupil A over her clothes on her knee, thigh, waist and buttock. Mr Pate also conceded that "*a small part*"

of his motivation in kissing and touching Pupil A had been because he was sexually attracted to her.

Accordingly, the panel found that Mr Pate's actions as found proven at allegations 3(a) to (j) were, on the balance of probabilities, more likely than not to have been in the pursuit of a sexual relationship. In particular, the panel felt that the conduct found proven at allegations 3(i) and (j) was inherently sexual in nature. The panel was not persuaded that there was another plausible innocent explanation for the conduct. The panel therefore found allegation 4 proven.

5. On or about 14 December 2018, you were absent from School and the reason given by you and / or recorded by the School was sickness, when in fact the reason for your absence was to meet Pupil A.

6. On or about 23 April 2019, you were absent from School and the reason given by you and / or recorded by the School was that your child was unwell, when in fact the reason for your absence was to meet Pupil A.

Mr Pate admitted allegations 5 and 6.

Witness A submitted that during the course of the disciplinary investigation meeting with Mr Pate on 17 July 2019, Mr Pate confirmed that he was absent on 14 December 2018, having called the School saying that he was unwell when in fact he went to meet Pupil A. Further, Mr Pate confirmed that he was also absent on 23 April 2019, having called the School saying that his child was unwell when in fact he was meeting Pupil A.

Within his oral testimony, Mr Pate told the panel that he provided cover work for the lessons and "*made sure that the work was relevant to the topics being covered.*"

The panel found allegations 5 and 6 proven.

7. Your conduct at 5 and/ or 6 above was dishonest.

Mr Pate admitted that his conduct was dishonest and represented a breach of contract as well as of professional standards.

Accordingly, the panel found allegation 7 proven.

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

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as 'the Advice.'

The panel was satisfied that the conduct of Mr Pate, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Pate was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach and maintain high standards 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 was satisfied that the conduct of Mr Pate amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Pate's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that the offences of sexual activity / sexual communication with a child was potentially relevant to this case. The panel was mindful that no police action had been taken but the Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that several allegations, including allegations 3(e), 3(f) 3(g) and 3(h) took place outside the education setting, in that they took place outside of school and outside of school hours. However, the panel thought that Mr Pate's actions touched upon his profession as a teacher, particularly given the short space in time between Pupil A leaving the School and these incidents occurring. Whilst Mr Pate contended that this was a significant period of time, the panel rejected this notion.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct are extremely serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception, particularly in light of the fact Pupil A was 15 years old at the commencement of the conduct.

The panel therefore found that Mr Pate's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1 to 7 proved, the panel further found that Mr Pate's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.

The panel were aware that 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 had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

The panel's findings against Mr Pate involved a finding of conduct towards Pupil A, when she was a pupil in his care, which led to Mr Pate forming an inappropriate and romantic relationship with Pupil A. In that light, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of an inappropriate relationship and that sexual motivation was also found proven.

Similarly, the panel considered that public confidence in the profession could be eroded if conduct such as that found against Mr Pate was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Pate was outside that which could reasonably be tolerated.

The panel also considered the public interest in retaining Mr Pate in the profession as he had clearly demonstrated through his oral testimony that he was a dedicated and effective teacher who had contributed ably to the profession throughout his career. Mr Pate provided to the panel a letter dated 20 June 2007 from the North West & Lancashire G RTP Consortium in respect of a visit of an external assessor to view one of his lessons which commented that the external assessor “*was very impressed by both the quality and delivery*” of Mr Pate’s lesson.

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 Pate.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Pate. 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 were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers’ Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- any abuse of any trust, knowledge or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual’s professional position;
- violating of the rights of pupils.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors.

Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

Mr Pate provided further documentation in respect of mitigation, which consisted of 15 cards and messages from former pupils and their parents as well as the letter dated 20 June 2007 from the North West & Lancashire GRTP Consortium in respect of a visit of an external assessor to view one of his lessons.

There was no evidence that Mr Pate's actions were not deliberate.

There was no evidence to suggest that Mr Pate was acting under extreme duress. Mr Pate told the panel of his [redacted].

Mr Pate presented evidence which attested to his previous history as a teacher which showed that he demonstrated high standards in his professional conduct and had contributed significantly to the school at which he had been teaching. The panel was provided testimonials from 3 of his former colleagues that demonstrated that he was a well-regarded and competent teacher. However, the panel was mindful that those providing the testimonials were not aware of the allegations against Mr Pate.

Mr Pate expressed his regret and admitted that he failed to act appropriately and in line with professional standards. Mr Pate further expressed some remorse that he had "*jeopardised the wellbeing of Pupil A and her family*" and that he hoped that she could now place this permanently behind her and move on. Mr Pate also expressed remorse about the adverse impact that his actions had had on his own family. The panel noted that on several occasions throughout the hearing, Mr Pate became visibly upset.

In terms of insight, the panel felt that Mr Pate had not fully understood the impact of his actions on Pupil A. The panel felt that Mr Pate did not fully appreciate the power imbalance between himself and Pupil A which was demonstrated by his submission that, "*Pupil A had a lot of choice throughout the course of the relationship.*" Mr Pate made repeated reference to this being a "*unique*" event and that one factor was "*the person that Pupil A was, her personality, values, humour and manner.*" The panel felt this was an indication of Mr Pate's lack of appreciation for the severity of his conduct and the fact that Pupil A was aged 15 and 16 at the time of the conduct. The panel therefore felt that Mr Pate's insufficient insight into his actions led the panel to conclude that there remained a risk that a similar gross error of judgment could occur in the future.

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 would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would

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

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Pate. The abuse of Mr Pate's position of trust in his conduct whilst and shortly after Pupil A was a pupil in his care, which has been found to be sexually motivated, was a significant factor in forming that opinion. Accordingly, the panel made 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 a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons / any sexual misconduct involving a child. The panel found that Mr Pate was responsible for forming an inappropriate relationship with Pupil A and that his conduct was sexually motivated. The panel also thought it significant that the conduct found proven took place over a prolonged period of time.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found that Mr Pate was not responsible for any such behaviours.

The panel decided 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 provisions 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 both sanction and review period.

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

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Richard Pate should be the subject of a prohibition order, with no provision for a review period.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach and maintain high standards 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 finds that the conduct of Mr Pate fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they involved a finding of conduct towards Pupil A, when she was a pupil in his care, which led to Mr Pate forming an inappropriate and romantic relationship with Pupil A.

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 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 Pate, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect pupils. The panel has observed, "Mr Pate's insufficient insight into his actions led the

panel to conclude that there remained a risk that a similar gross error of judgment could occur in the future.” A prohibition order would therefore prevent such a risk from being present in the future.

I have taken into account the panel’s comments on insight and remorse, set out as follows, “Mr Pate expressed his regret and admitted that he failed to act appropriately and in line with professional standards. Mr Pate further expressed some remorse that he had “*jeopardised the wellbeing of Pupil A and her family*” and that he hoped that she could now place this permanently behind her and move on. Mr Pate also expressed remorse about the adverse impact that his actions had had on his own family. The panel noted that on several occasions throughout the hearing, Mr Pate became visibly upset.”

The panel also commented “Mr Pate had not fully understood the impact of his actions on Pupil A. The panel felt that Mr Pate did not fully appreciate the power imbalance between himself and Pupil A which was demonstrated by his submission that, “*Pupil A had a lot of choice throughout the course of the relationship.*” In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour, and this puts at risk 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, “findings against Mr Pate involved a finding of conduct towards Pupil A, when she was a pupil in his care, which led to Mr Pate forming an inappropriate and romantic relationship with Pupil A. In that light, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of an inappropriate relationship and that sexual motivation was also found proven.” And “the panel considered that public confidence in the profession could be eroded if conduct such as that found against Mr Pate was not treated with the utmost seriousness when regulating the conduct of the profession”. I am particularly mindful of the finding of sexual motivation 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 the public might regard a failure to impose a prohibition order 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 Pate himself and the panel comment “Mr Pate presented evidence which attested to his previous history as a teacher which showed that he demonstrated high standards in his professional conduct and had contributed significantly to the school at which he had been teaching.”

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

In this case, I have placed considerable weight on the panel’s comments, “The panel decided that the public interest considerations outweighed the interests of Mr Pate. The abuse of Mr Pate’s position of trust in his conduct whilst and shortly after Pupil A was a pupil in his care, which has been found to be sexually motivated, was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Pate 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, in light of the circumstances in this case, that is not backed up by full 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 intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons / any sexual misconduct involving a child. The panel found that Mr Pate was responsible for forming an inappropriate relationship with Pupil A and that his conduct was sexually motivated. The panel also thought it significant that the conduct found proven took place over a prolonged period of time.”

I have considered whether not allowing a 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, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements

are the seriousness of the findings involving Pupil A, which were found to be sexually motivated and the lack of full insight.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Mr Richard Pate 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 Pate 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 Richard Pate has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath the first few letters.

Decision maker: Sarah Buxcey

Date: 11 July 2022

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