



Teaching  
Regulation  
Agency

# **Mr Andrew Simms Professional conduct panel outcome**

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

**July 2022**

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## Professional conduct panel decision

<b>Teacher:</b>	Mr Andrew Simms
<b>Teacher ref number:</b>	343347
<b>Teacher date of birth:</b>	08 January 1978
<b>TRA reference:</b>	17486
<b>Date of determination:</b>	13 July 2022
<b>Former employer:</b>	CTC Kingshurst College, Birmingham

## Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 11 to 13 July 2022, to consider the case of Mr Simms.

The panel members were Mr Maurice McBride (lay panellist – in the chair), Mrs Kathleen O'Hare (former teacher panellist) and Mrs Christine McLintock (teacher panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

The presenting officer for the TRA was Ms Naomh Gibson of counsel, instructed by Browne Jacobson LLP.

Mr Simms was not present and was not represented.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 13 May 2022. The following allegations are the amended allegations (as detailed in the preliminary applications section).

It was alleged that Mr Simms was guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute, in that:

- 1) You engaged in and/or developed an inappropriate relationship with Pupil B in that:
  - a. You exchanged inappropriate messages including but not limited to messages of a sexual nature;
  - b. Received an explicit image of her,
  - c. Engaged in sexual contact and/or sexual intercourse with her:
    - i. When she was under 16 years of age;
    - ii. At or around the date of the [REDACTED]
    - iii. On or around 10 January 2018.
- 2) You failed to maintain appropriate professional boundaries with Pupil A and/or Pupil C including by:
  - a. Engaging in inappropriate conversations with Pupil A and Pupil C including:
    - i. Asking Pupil A whether she was wearing a bra;
    - ii. Informing Pupil A that she was "your type" or words to that effect;
    - iii. Stating that she was "gorgeous" or words to that effect;
    - iv. Discussing engaging in group sexual activity with one or more pupils.
- 3) Your behaviour as may be proven at Allegations 1 and/or 2 above was conduct of a sexual nature and/or was sexually motivated.
- 4) You informed police in 2018 that you had not previously engaged in sexual contact and/or sexual intercourse with Pupil B when in fact you had.
- 5) You discussed the school's investigation into your conduct at Allegations (1)-(2) above with one or more colleagues in 2018 contrary to an instruction not to do so.
- 6) Your conduct as may be found proven at Allegations (4)-(5) above was dishonest and/or lacked integrity.

There was not an agreed statement of facts before the panel. There were written representations from Mr Simms's solicitors dated 31 January 2020 and correspondence (including the response to the notice of referral) from Mr Simms dated 25 September 2020 which touched on his position. However, some of those representations contradicted each other. As Mr Simms was not present to further clarify those representations, the panel considered it should proceed on the basis of a fully disputed case.

## Preliminary applications

The panel considered the following preliminary applications:

### Application to proceed in the absence of Mr Simms

The panel considered an application from the presenting officer to proceed in the absence of Mr Simms.

The TRA had written to Mr Simms at the address he provided in correspondence, which he initially sent to the TRA (directly and via his solicitors at the time). On 11 November 2020, the presenting officer's instructing firm received a non-deliverable notice following a letter sent on 9 November 2020. Following trace enquires, two further possible addresses were found for Mr Simms. Further correspondence was sent to those addresses, but there was still no positive response from Mr Simms. From 9 November 2020 to 16 April 2022, the TRA had written on seven occasions to these possible addresses.

The TRA had also made a number of attempts by email and telephone, equally without success. The panel also had sight of an email dated 8 October 2021 from Mr Simms's solicitors at the time, confirming they were no longer acting for Mr Simms.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the notice of proceedings ("the Notice") had been sent in accordance with Rules 4.11 and 4.12 of the April 2018 Teacher misconduct: disciplinary procedures for the teaching profession ("the Procedures") and that the requirements for service had been satisfied.

The panel went on to consider whether to proceed in Mr Simms's absence or to adjourn, in accordance with Rule 4.29 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Simms is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to him/her as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mr Simms for the following reasons:

- Mr Simms had not sought an adjournment and there was no medical evidence before the panel which indicated that he was unfit to attend the hearing due to ill-health.
- The panel was satisfied that Mr Simms's absence was voluntary and he had waived his right to attend.
- Given Mr Simms' non-engagement with the notice procedure, there was no indication that Mr Simms might attend at a future date such that no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.
- There is a burden on all professionals who are subject to a regulatory regime to engage with their regulator.
- There are witnesses present to give evidence to the panel who would be significantly inconvenienced were the hearing to be adjourned.

Having decided that it is appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mr Simms is neither present nor represented.

## Amendment to the allegations

The panel exercised its power under paragraph 4.56 of the disciplinary procedures to amend the allegations. The panel noted some minor typographic errors which it sought to correct. The application was not opposed by the presenting officer. The panel considered the advice of the legal adviser and followed that advice. The panel was also mindful that Mr Simms was not present to provide any representations.

The panel considered that the corrections made no changes to the case against Mr Simms and that it is in the interests of justice for allegations to be drafted as accurately as they can be. As these were simple typographic corrections, the panel were also satisfied there would be no prejudice to Mr Simms in making these amendments.

The panel therefore amended the following allegations by including the words or letters noted in bold underline:

- Allegation 2.c.ii. Informing Pupil A that she **was** "your type"...
- Allegation 2.c.iii. Stating that she was "gorge**ous**"...
- Allegation 6: You**r** conduct as may...

## Summary of evidence

## Documents

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

Section 1: Notice of proceedings & notice of response – pages 4 to 22

Section 2: Attempts at correspondence with Teacher – pages 23 to 39

Section 3: Witness statements – pages 40 to 74

Section 4: Teaching Regulation Agency documents – pages 75 to 142

Section 5: Teacher documents – pages 143 to 153

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:

- Pupil A (Pupil at CTC Kingshurst College)
- Pupil B (Pupil at CTC Kingshurst College)

## Decision and reasons

The panel carefully considered the case before it and reached a decision. The panel has also considered and followed the advice of the legal adviser given in the hearing.

Mr Simms joined CTC Kingshurst College as a teacher of engineering on 5 December 2014. He taught from ages 11 to 18 and was later promoted to head of engineering.

On 17 January 2018, Pupil A disclosed to another teacher at CTC Kingshurst College that she and Pupil C had been receiving inappropriate messages from Mr Simms and that she was aware that Pupil B had been having sexual intercourse with Mr Simms.

Mr Simms was suspended by the College on 18 January 2018. A number of investigations commenced including by the College, Local Authority Designated Officer and the police. Following the conclusion of the College's investigation, a referral was made to the TRA.

The police investigation included interviewing a number of pupils which were video recorded (commonly referred to as an 'ABE interview') and Mr Simms was interviewed under caution. This investigation resulted in criminal charges being brought against Mr

Simms. Following a trial at Birmingham Crown Court, he was acquitted of any criminal offences.

The panel makes reference to these other investigations simply to aid the identification of some of the sources of the evidence it has considered. It has given no consideration to any conclusions made by these organisations.

## **Findings of fact**

The findings of fact are as follows:

### **1) You engaged in and/or developed an inappropriate relationship with Pupil B in that:**

The panel heard oral evidence from Pupil B who gave detailed evidence about the development of the relationship with Mr Simms. Pupil B explained that she first met Mr Simms in [REDACTED]. She was one of the pupils in the engineering class and Mr Simms took over from another teacher part way through that year. Pupil B went on to describe an uneventful year and a normal teacher/pupil relationship with Mr Simms.

In [REDACTED], the relationship started to change following Pupil B revealing some details about her private life to Mr Simms. Following this, he started to speak to her more and 'check in' with her on a regular basis. Pupil B explained this relationship further developed as she also started spending more time in Mr Simms's classroom, including after school to work on assignments, albeit this was with other pupils present.

In [REDACTED], Pupil B described how the nature of their conversations further evolved and that Mr Simms would discuss things such as details about his private family life. Other pupils commented to Pupil B that Mr Simms appeared to pay more attention to her, although she did not recognise this herself until a specific incident in Mr Simms's class when she was involved in an argument with another pupil, but she did not get into any trouble, but the other pupil did.

Following Easter, Pupil B described their conversations becoming more jokey and flirtatious. Pupil B also recalled that Mr Simms told her that another teacher had approached him and said you shouldn't be spending so much time with her. On one occasion, Pupil B went to speak with Mr Simms in the engineering room office and noticed there was a pull up bar in the office. Pupil B attempted to use the bar and Mr Simms pushed her up by using his hands on her bottom.

During that term, Pupil B described a day where she was in the engineering classroom, with another pupil and Mr Simms placed his open phone on the desk in front of them and left the room. The two pupils joked about looking at his phone and saw that his Snapchat was open on the screen. Pupil B took Mr Simms's Snapchat name and added him to her



Snapchat account and sent him a message pretending to be someone else. Pupil B explained that Mr Simms worked out it was her straight away and they continued to talk by Snapchat frequently.

Pupil B stated that on 29 June 2017, Mr Simms and she had sexual intercourse for the first time. This date would have made Pupil B [REDACTED] at the time. Pupil B explained that she could remember this date as it was the day before the [REDACTED]. Pupil B and Mr Simms were messaging each other and Pupil B told Mr Simms that her father was out, as [REDACTED], and she was at home and free to meet him. Mr Simms told her that he would leave the gym early and come and pick her up, which he did from the [REDACTED]. Pupil B described Mr Simms as wearing shorts and a vest top at the time. They went back to Mr Simms's house and sat and drank a cup of tea. Mr Simms then led Pupil B upstairs and they started to kiss and it lead on to sexual intercourse.

The relationship continued. Pupil B explained she continued to meet up with Mr Simms and would often go to his house and have sex with Mr Simms, when his wife was out working in the evening. This included Mr Simms also buying her outfits to wear when she was with him.

In September 2017, [REDACTED], Pupil B started at a new college, but still continued to meet up with Mr Simms. Pupil B explained that on occasion Mr Simms would still assist her with her college work when she went to see him. Pupil B explained towards the end of the year she started to feel guilty about the sexual relationship, particularly as Mr Simms was married, had a family, and also because she had become interested in another boy.

Pupil B explained that the last time she had sexual intercourse with Mr Simms was in December 2017. There was further messaging into January 2018, but it stopped following Mr Simms's suspension from the College and there was no more contact after that point.

In his written representations, Mr Simms accepted there had been an inappropriate consensual sexual relationship with Pupil B, but that it started in September 2017 when Pupil B was then [REDACTED]. He denied the relationship had started when Pupil B was [REDACTED].

Mr Simms also advanced: *"The TRA has to accept that they are dealing with teenage girls... There is a high likelihood of the risk of exaggeration and attention seeking"*. The panel do not share that view. In the absence of Mr Simms, the panel spent a significant period of time questioning Pupil B to ensure they had the complete picture of her evidence. The panel considered that Pupil B's evidence was measured, she spoke candidly about difficult and sensitive topics and made appropriate concessions, where she did not have the knowledge regarding certain topics. She immediately corrected any incorrect presumptions in questioning. The evidence followed an internal consistency and

was corroborated with other sources of evidence before the panel. The panel also carefully considered the issue surrounding Pupil B's change of account to the police. Pupil B's evidence was that she was worried about getting Mr Simms into any more trouble at first and did not think he had really done anything wrong. It was only after receiving some counselling between the two police interviews, that Pupil B gained a better understanding that the relationship between them was inappropriate and that she should not have felt guilty about it or disclosing when it started. The panel accepted this a wholly reasonable explanation. The panel therefore considered Pupil B's evidence to be highly credible.

**a. You exchanged inappropriate messages including but not limited to messages of a sexual nature;**

**b. Received an explicit image of her,**

The panel heard oral evidence from Pupil B who explained during the course of her and Mr Simms messaging each other, Mr Simms had asked Pupil B to send images of herself to him. Pupil B said she had sent a number of images of herself to Mr Simms, including nude photos. Pupil B also stated that Mr Simms did not send any inappropriate images of himself to her. This account was also consistent with the account Pupil B gave to the police in the earlier investigation.

Mr Simms made the following written representations regarding these messages:

*"No evidence was found in court of an exchange of inappropriate messages, [Pupil B] admitted that she had sent me an inappropriate message but I did not respond inappropriately. If she was still a student of the school I would have reported it."*

The panel also noted that whilst the police did not find any pictures or messages on the parties' phones, there was mention in the case summary that after his wife, Pupil B was the second most contacted person on Mr Simms's phone. Pupil B also explained that the nature of the messages between them would at times be 'flirty'.

The panel considered that on this evidence, it was more likely than not that Mr Simms received an explicit picture of Pupil B and therefore find allegation 1b proved.

In the absence of any evidence of the contents of the general messaging between Pupil B and Mr Simms, the panel could not make any findings as to their appropriateness, so find allegation 1a proved, only in so far as it applies to the receiving of explicit images.

### **c. Engaged in sexual contact and/or sexual intercourse with her:**

#### **i. When she was under 16 years of age;**

#### **ii. At or around the date of the [REDACTED];**

Pupil B gave evidence to the panel that the [REDACTED] took place on 30 June 2017. She first gave this date in the second police ABE interview in March 2018. Pupil B explained that as this was a memorable event for her and that is why she can remember the date of their first sexual encounter as it happened on 29 June 2017, [REDACTED]. The College's investigation notes also state the [REDACTED] as taking place in June 2017.

The panel noted in Mr Simms representations that he advanced in his criminal trial that he could not have been present with Pupil B on 29 June 2017, as he had records which showed his was at the gym on that date. Mr Simms did not provide those records to this panel.

The panel considered that it was more likely than not that the first time Pupil B and Mr Simms engaged in sexual intercourse was 29 June 2017. Pupil B's detailed account, including that she was highly likely to remember the date of the Prom and regarding Mr Simms's gym attendance were a credible account. The panel were not persuaded that Mr Simms could not have been with Pupil B, at all that day, on the basis that he made a visit to a gym.

Both Pupil B and Mr Simms agreed on the date of birth of Pupil B which is [REDACTED]. This meant that Pupil B was [REDACTED] on 29 June 2017.

Accordingly, the panel find sub-allegation i and ii proved.

#### **iii. On or around 10 January 2018.**

Pupil B gave oral evidence that the sexual element of her relationship with Mr Simms stopped in December 2017.

In his written representations, Mr Simms denied this sub-allegation.

The panel noted the only reference to this date in the bundle was in reference to an apparent disclosure by Pupil A and/or C to another teacher. Pupil C has not provided a statement or given oral evidence in these proceedings. Pupil A was not taken to this topic in her oral evidence.

The panel therefore were not satisfied that it was more likely than not that sub-allegation iii took place and did not find it proved.

## **2) You failed to maintain appropriate professional boundaries with Pupil A and/or Pupil C including by:**

In his written representations, Mr Simms accepted the following:

*"The only physical evidence adduced is a snapshot of a conversation with [Pupil A] where [Mr Simms] refers to [Pupil A] as gorgeous and "I would offer to bring it over to you, but after our conversation earlier don't know if I could trust myself." [Mr Simms] in hindsight can acknowledge that the content of this message is inappropriate and deeply regrets it."*

In the College's investigation report, Mr Simms was reported as saying:

*"Mr Simms did recall the message to [Pupil A] saying something like 'it's a good job we won't be in the same place because I won't be able to control myself around you' and accepted that this was a 'silly, stupid mistake' and acknowledges this to be highly inappropriate."*

Whilst the panel was mindful that Mr Simms's remarks in the investigation were hearsay comments, they essentially mirrored the position he had also provided directly to the TRA.

Before turning to the sub allegations, the panel considered Mr Simms's repeated admissions were proof of his failings to maintain professional boundaries with Pupil A and find the main stem of this allegation proved on the balance on probabilities, in so far as it applies to Pupil A.

### **a. Engaging in inappropriate conversations with Pupil A and Pupil C including:**

#### **i. Asking Pupil A whether she was wearing a bra;**

#### **ii. Informing Pupil A that she was 'your type' or words to that effect;**

The panel heard oral evidence from Pupil A, who gave evidence that Mr Simms would repair other pupils' phones. She had gone to the engineering room office, as her phone screen was broken and she wanted Mr Simms to fix it. Whilst in the office, Mr Simms remarked about her being a good looking girl, had an athletic figure, was his type and asked if she had a bra on.

In the College's investigation, Mr Simms is reported to have said:

*"Mr Simms also recalls a discussion about [Pupil A] not wearing a bra but states that she had made this claim to him and that he had replied saying that she should*

*be wearing a bra at school and asking why she was telling him. He said he had then just completely ignored the conversation."*

In his further correspondence to the TRA, Mr Simms stated:

*"[Pupil A] stated that she was very hot, I told her to take her jumper off if she was hot, she replied that she couldn't take off her jumper as she had nothing on underneath."*

The panel considered that Pupil A's oral evidence was consistent with her earlier account and noted Pupil C also made reference to Mr Simms making comments about "his type" and "athletic figures" in her ABE interview.

On this evidence the panel was satisfied that it was more likely than not that Mr Simms used these terms when speaking to Pupil A and therefore find these sub-allegations proved.

### **iii. Stating that she was "gorgeous" or words to that effect;**

Pupil A gave evidence to the panel that she had been in contact with Mr Simms via Facetime about the return of her phone and that during that call, Mr Simms called her gorgeous.

As mentioned above, Mr Simms accepted referring to Pupil A as gorgeous in his representations to the TRA.

The panel considers on this evidence it was more likely than not that Mr Simms referred to Pupil A as gorgeous and therefore finds this sub-allegation proved, in so far as it applies to Pupil A.

The panel did not hear any live evidence, nor was there any signed statement provided by Pupil C. In this circumstance, the panel considered it would be unfair to consider this sub-allegation, as it relates to Pupil C, on any remaining hearsay evidence.

### **iv. Discussing engaging in group sexual activity with one or more pupils.**

Both Pupils A and B gave evidence before the panel that they joked between themselves and Pupil C about group sexual activity with Mr Simms and that it was also said to him as a joke as well.

However, the panel was not satisfied on the evidence they heard showed it was more likely than not that Mr Simms engaged in an inappropriate conversation about group sexual activity and therefore find this sub-allegation not proved.

### **3) Your behaviour as may be proven at Allegations 1 and/or 2 above was conduct of a sexual nature and/or was sexually motivated.**

Having found allegations 1 and 2 proved, in so far as they had, the panel then went on to consider this allegation.

It was common ground between the TRA and Mr Simms that the relationship between Pupil B and Mr Simms included a sexual relationship. The evidence before the panel also showed that to plainly be the case on the balance of probabilities. The panel therefore find allegation 1 amounts to sexually motivated conduct.

The panel was satisfied that the circumstances and purpose of communicating with Pupil A, such as mentioning that he could not control himself around her, was to comment on her attractiveness in a sexual context. The panel was therefore satisfied it was more likely than not of a sexual nature and therefore find allegation 2 amounts to conduct of a sexual nature.

### **4) You informed police in 2018 that you had not previously engaged in sexual contact and/or sexual intercourse with Pupil B when in fact you had.**

In the police case summary, Mr Simms's interview was summarised as:

*"[Mr Simms] ha[d] an interview on the 18th January and was further interviewed on the 19th of April following all phone downloads and the DNA evidence on the underwear.*

*[Mr Simms] admitted to having telephone contact but denied any sexual activity. He could not account for the prescence[sic] of semen."*

In his written representations to the TRA, Mr Simms accepted that he initially denied having a sexual relationship with Pupil B whilst being interviewed by the police under caution.

The panel was therefore satisfied that it was more likely than not that this had taken place and find this allegation proved.

### **5) You discussed the school's investigation into your conduct at Allegations (1)-(2) above with one or more colleagues in 2018 contrary to an instruction not to do so.**

The panel considered an email by [REDACTED] (another colleague) to the College, following seeing Mr Simms in a supermarket, where they discussed the circumstances of his suspension.

Included in that email were:

*"[Mr Simms] said that rumours have reached him from school that he has apparently been sleeping with a student since [REDACTED] and that it's a load of rubbish as that was bang out of order.*

*[Mr Simms] said "I knew [Pupil B] was a stalker and had been warned about it at school but I should have taken that more serious as now these lies have come out and I have been put in this situation"*

Whilst the panel were mindful these were hearsay comments, the panel considered that there was a high level of detail in the email, it was written fairly contemporaneously to the event and was measured in tone. Taking into account Mr Simms' admission below, the panel placed significant weight on the contents of this email.

In his written representations to the TRA, Mr Simms stated:

*"I did discuss a small amount of information regarding the investigation with a colleague, but this was only because I bumped into him in the supermarket and he asked what was going on. I was instructed not to discuss the investigation by the principle[sic] at the end of a letter but this was not reiterated in any way..."*

The panel therefore considered on this evidence it was more likely than not to have taken place and find this allegation proved to the extent he discussed it with [REDACTED].

## **6) Your conduct as may be found proven at Allegations (4)-(5) above was dishonest and/or lacked integrity.**

In his written submissions to the TRA, Mr Simms accepted: *"I did lie to the police in my first interview about having a sexual relationship with [Pupil B]."*

The panel firstly considered the factual circumstances known to Mr Simms, namely that he was aware he had been in a sexual relationship with Pupil B and that he was being investigated by the police.

The panel then considered his conduct in telling the police that it was not correct that he had a sexual relationship with Pupil B was objectively dishonest and he said this to protect his position and family situation.

Therefore, the panel is satisfied that Mr Simms conduct in allegation 4 amounted to dishonesty.

The presenting officer did not advance the case that the discussion about the suspension with his colleague would amount to dishonest conduct, only that it could amount to conduct that lacked in integrity. The panel agreed with this submission.

The panel noted Mr Simms talked disparagingly about Pupil B to a colleague whilst under a clear and understood instruction not to discuss the investigation. Mr Simms also lied to the police during their investigation. These events showed a clear departure from the ethical standards of the teaching profession and therefore the panel find allegations 4 and 5 amounts to conduct which lacked integrity.

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

Having found a number of 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 Simms, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Simms 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
  - showing tolerance of and respect for the rights of others
- 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 Simms amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Mr Simms had abused the trust of his position at the most serious end of the spectrum by engaging in a sexual relationship with a pupil and inappropriate communication with another pupil.

The panel also considered whether Mr Simms's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that the following offences were relevant:

- sexual activity



- sexual communication with a child
- any activity involving viewing, possessing any indecent photograph or image of a child, or permitting any such activity, including one-off incidents

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 was satisfied that Mr Simms 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 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.

The panel further found that Mr Simms'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. 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;

- declaring and upholding proper standards of conduct;

In the light of the panel's findings against Mr Simms, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of an inappropriate relationship with Pupil B.

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

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 Simms. 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 proved. 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 safeguarding well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- failure to act on evidence that indicated a child's welfare may have been at risk, for example, failed to notify the designated safeguarding lead;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- dishonesty or a lack of integrity, including the deliberate concealment of their actions;
- violation of the rights of pupils;
- 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;

- any activity involving possessing any indecent photograph or image of a child, or permitting such activity, including one-off incidents;

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.

There was no evidence that Mr Simms actions were not deliberate. There was no evidence to suggest that Mr Simms was acting under duress, and, in fact, the panel found Mr Simms's actions to be calculated and motivated.

Mr Simms has not engaged with this hearing, other than providing representations at the early stage of the investigation. In those representations, he accepted that his relationship with Pupil B was inappropriate. He further went on to state:

*"I am not making any excuses for my actions whatsoever, I do not ever want to teach again."*

There were no character references or other information before the panel which spoke to Mr Simms's abilities as a teacher.

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 and balancing the number of behaviours present as set out in the Advice combined with the lack of any mitigating factors, 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 Simms 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 Simms. The serious sexual misconduct by Mr Simms 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 includes:

- 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;
- any activity involving viewing, possessing any indecent image of a child

The panel found that Mr Simms was responsible for an egregious breach of trust between a teacher and pupil which it considered incompatible with being a teacher.

The panel also noted the repetitive nature of Mr Simms's conduct with more than one pupil. Mr Simms has provided no evidence to show any remorse or insight into his actions, or that he has taken any steps to remediate his professional failings which would reduce the risk of any repetition to further harm to pupils.

In these circumstances 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 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 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 some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven. I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Mr Simms 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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 proved. 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 safeguarding well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- failure to act on evidence that indicated a child's welfare may have been at risk, for example, failed to notify the designated safeguarding lead;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);

The panel finds that the conduct of Mr Simms fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include an inappropriate relationship with a pupil, which was sexually motivated.

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 Simms, 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, "In the light of the panel's findings against Mr Simms, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of an inappropriate relationship with Pupil B." 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 Simms has provided no evidence to show any remorse or insight into his actions, or that he has taken any steps to remediate his professional failings which would reduce the risk of any repetition to further harm to pupils." In my judgement, the lack of insight or remorse 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, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Simms were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of serious sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation 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 Simms himself and the panel comment "There were no character references or other information before the panel which spoke to Mr Simms's abilities as a teacher."

A prohibition order would prevent Mr Simms 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 following comments, and the panel has said, "There was no evidence that Mr Simms actions were not deliberate. There was

no evidence to suggest that Mr Simms was acting under duress, and, in fact, the panel found Mr Simms's actions to be calculated and motivated.”

I have also placed considerable weight on the finding of the panel that “Mr Simms was responsible for an egregious breach of trust between a teacher and pupil which it considered incompatible with being a teacher.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Simms 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 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 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 panel also noted the repetitive nature of Mr Simms's conduct with more than one pupil. Mr Simms has provided no evidence to show any remorse or insight into his actions, or that he has taken any steps to remediate his professional failings which would reduce the risk of any repetition to further harm to pupils.”

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 serious nature of this case and the lack of insight or remorse.

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 Andrew Simms 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 Simms 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 Simms 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 'SABuxcey', with a horizontal line underneath.

**Decision maker: Sarah Buxcey**

**Date: 19 July 2022**

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