



Teaching
Regulation
Agency

Mr Tyler Hickling 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 and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mr Tyler Hickling
Teacher ref number:	1542289
Teacher date of birth:	30 May 1993
TRA reference:	17323
Date of determination:	27 July 2022
Former employer:	The Brunts Academy, Nottinghamshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 25 to 27 July 2022, to consider the case of Mr Tyler Hickling.

The panel members were Mrs Charlotte Kelly (lay panellist – in the chair), Mr Clive Ruddle (lay panellist) and Mr Chris Major (teacher panellist).

The legal adviser to the panel was Ms Claire Watson of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Mr Ben Bentley of Browne Jacobson solicitors.

Mr Tyler Hickling 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 23 May 2022.

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

1. He failed to maintain professional boundaries and/or engaged in an inappropriate relationship with Pupil B, including by;
 - a. communicating with Pupil B on their personal mobile phone;
 - b. communicating with Pupil B on social media platforms;
 - c. exchanging inappropriate photographs with Pupil B;
 - d. touching Pupil B's legs;
 - e. hugging Pupil B;
 - f. making physical contact with Pupil B's back;
 - g. making one or more inappropriate comments, by stating to Pupil B words to the effect of;
 - i. he would prefer Pupil B to wear a skirt;
 - ii. he didn't plan to do anything sexual until Pupil B was older.
2. His behaviour as may be found proven at 1 above;
 - a. was conduct of a sexual nature and/or sexually motivated;
 - b. demonstrated a lack of insight into the concerns which had been raised when he was undertaking work experience at the Ripley Academy in 2013, specifically relating to his contact with pupils and/or use of social media.
3. He sought to conceal his communication with Pupil B, including by;
 - a. deleting the messages he had exchanged with Pupil B on his mobile phone;
 - b. asking Pupil B to delete the messages they had exchanged;
 - c. deleting messages from Pupil B's mobile phone.
4. His conduct as may be found proven at 3 above lacked integrity and/or was dishonest.
5. On or around 31 July 2019, he was convicted at Nottingham Crown Court for the offence of adult meet a girl under 16 years of age following grooming, for which he was sentenced at Lincoln Crown Court on 3 September 2019 to 9 months imprisonment (suspended for 12 months), required to undertake a rehabilitation activity requirement of 10 days, ordered to undertake 150 hours of unpaid work [sic] before 2 September 2020 and required to pay a victim surcharge of £140.

In the notice of referral response, Mr Hickling admitted allegation 1a, 1b, 1e, 1f, 3a and 3b. He did not admit the remainder of the allegations, or unacceptable professional conduct and/or conduct that may bring the profession into disrepute. No response was received to the notice of proceedings.

Preliminary applications

Proceeding in absence

The presenting officer made an application to proceed in the absence of Mr Hickling.

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

The panel was satisfied that the TRA had complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession, (the "Procedures").

The panel determined to exercise its discretion under paragraph 4.29 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took as its starting point the principle from R v Jones that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in GMC v Adeogba & Visvardis.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel firstly took account of the various factors drawn to its attention from the case of R v Jones [2003] 1 AC 1.

The panel considered that the teacher was aware of the proceedings, as he had previously responded to a notice of referral and the notice of the proceedings had been sent to the teacher at both an address that he had previously responded to and by email. The hearing bundle had been sent by recorded delivery and had been signed for. The panel therefore considered that the teacher had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

The panel noted that no communication had been received from Mr Hickling, beyond a response to the notice of referral dated 18 March 2021, and as such did not consider that an adjournment would result in Mr Hickling attending voluntarily.

Mr Hickling had not expressed a wish to adjourn the hearing to obtain legal representation.

The panel noted that three witnesses had been called to give evidence by the presenting officer and the panel could test that evidence in questioning those witnesses, considering such points that are favourable to the teacher, as reasonably available on the evidence. The panel had not identified any significant gaps in the documentary evidence provided to it and should such gaps have arisen during the course of the hearing, the panel could take such gaps into account when considering whether the hearing should be adjourned for such documents to become available and in considering whether the presenting officer has discharged the burden of proof. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel recognised that the allegations against the teacher are serious and that there was a real risk that if proven, the panel would be required to consider whether to recommend that the teacher ought to be prohibited from teaching.

The panel recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession. The allegations include reference to Pupil B who it is alleged the teacher engaged in an inappropriate relationship with. Pupil B will have an interest in having the allegations determined within a reasonable time.

The panel also noted that there were three witnesses present at the hearing, one of which had only just reached 18 years of age, who were prepared to give evidence, and that it may be inconvenient and distressing for them to return again. Delaying the case until a later stage may impact upon the memories of those witnesses.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that in light of the teacher's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in the hearing proceeding within a reasonable time was in favour of the hearing continuing.

Amending the allegations

Applications were made by the presenting officer to amend the notice of proceedings. These were to include 'You have been convicted, at any time, of a relevant offence, in that:' in the stem of allegation 5 and to amend the word 'word' to 'work' in allegation 5.

The legal adviser raised that the stem of allegations 1 and 3 stated 'including by'. The panel considered whether to amend to 'namely' or 'specifically', or whether the allegation had been sufficiently particularised in advance of the hearing for the defence to be able

to address matters pertaining to the stem of the allegation but which were not specifically set out in the sub-allegations.

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

Before making an amendment, the panel was required to consider any representations by the presenting officer and by the teacher. The teacher was absent from the hearing. The presenting officer submitted that the stem of allegation 5 had been omitted in error. He also stated that the proposed amendments did not alter the nature, scope or seriousness of the allegations and Mr Hickling had been informed of the stem of allegation 5 in the notice of the referral, which included reference to a conviction of a relevant offence.

The panel considered that changing the words 'including by' to 'specifically' would clarify the allegations made against Mr Hickling. The panel considered that amending the allegation in such a way would limit the scope of the allegation to the sub-allegations. The panel therefore decided to amend the allegation, changing the word 'including' in the stem of allegation 1 and allegation 3 to 'specifically'.

The panel considered that the amendment proposed, in relation to the word 'work' in allegation 5, being a correction of a typographical error, did not change the nature, scope or seriousness of the allegations. There was no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher.

In relation to amending the stem of allegation 5 to include reference to a conviction of a relevant offence, the panel was concerned that this application was made at such a late stage in the proceedings, and exercised caution to ensure that there was no unfairness to the teacher. The panel noted that the notice of referral, which Mr Hickling had received and responded to, stated 'You have been convicted, at any time, of a relevant offence, in that:' in the stem of allegation 5. The reference to a conviction of a relevant offence had therefore been disclosed to the teacher prior to the hearing.

The panel was concerned that the amendment proposed altered the nature of the allegations. Although the amendment would not change the factual basis of the allegations, it would impact the panel's decision-making process and the teacher may have presented his case differently had the amendment been made at an earlier stage. As currently drafted, the panel would consider allegation 5 in relation to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. However, conviction, at any time, of a relevant offence is a separate category, in accordance with the Teacher Misconduct: The Prohibition of Teachers.

The panel did not consider that it would be in the interests of justice to amend the stem of allegation 5. The presenting officer had ample opportunity to formulate the allegations in advance of the hearing and to amend the allegations at the start of the hearing would cause unfairness to the teacher.

Hearsay evidence

At the outset of the hearing, the legal adviser noted that the hearing bundle contained hearsay evidence, including statements from some pupils and notes made in the documents forming part of the school's disciplinary investigation whereby comments were made in minutes by someone not before the panel giving oral evidence.

The panel was advised that the Teacher Misconduct: The Prohibition of Teachers, in relation to hearsay evidence presented to the panel, states:

'The panel will consider whether the evidence is relevant and would be fair for it to be admitted. Where a panel decides that hearsay evidence is to be admitted it should treat that evidence with caution, giving it close scrutiny to determine its reliability and compatibility with factors presented in other evidence. A panel will then decide what weight if any should be attached to such evidence when making its finding of facts.'

The panel considered whether the hearsay evidence was admissible.

The panel did not identify any hearsay evidence within the bundle which would cause unfairness to the teacher. The panel noted that three witnesses were being called in the case and that it would have the opportunity to test that evidence. The panel considered that the safeguards in place, such as the provision of a hearsay warning before the panel made a determination on facts, was sufficient to afford fair and proper procedural safeguards.

The panel therefore decided not to remove any of the hearsay evidence from the bundle provided.

Vulnerable witness measures

The presenting officer made an application for one of the witnesses to be treated as a vulnerable witness and to have the presence of a witness supporter.

The panel directed that Pupil C was to be treated as a vulnerable witness since the panel was satisfied that the quality of her evidence was likely to be adversely affected if she did not have the presence of a witness supporter, given that she was a child during the investigation process and had only just reached the age of 18.

The panel considered paragraph 4.71 of the Procedures, and noted that there was no medical evidence that the welfare of Pupil C will be prejudiced by her giving evidence and the panel was content for her to give evidence.

The panel considered it appropriate to allow a witness supporter to safeguard the interests of Pupil C as a vulnerable witness. The presenting officer confirmed that the witness supporter had no conflict of interest in the proceedings.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised child list – pages 7 to 8

Section 2: Notice of referral response, notice of proceedings and response to notice of proceedings – pages 10 to 24

Section 3: Teaching Regulation Agency witness statements – pages 26 to 96

Section 4: Teaching Regulation Agency documents – pages 98 to 212

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 presenting officer:

Witness A, [REDACTED]

Witness B, [REDACTED]

Pupil 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 Hickling had been employed as a teacher of ICT at The Brunts Academy (“the School”) since 1 September 2015. On 16 June 2017, a pupil informed a teacher at the School that Pupil B had received text communication from Mr Hickling. The headteacher was informed and the School referred the matter to the local authority designated officer and the police.

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. You failed to maintain professional boundaries and/or engaged in an inappropriate relationship with Pupil B, specifically by;

a. communicating with Pupil B on their personal mobile phone;

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks referred to communication between Mr Hickling and Pupil B.

The panel heard from Witness B, who had spoken with Pupil B when the concerns came to light on 16 June 2017 and had sight of Pupil B's unlocked mobile phone. Witness B stated in oral evidence that he had seen a chain of correspondence between Pupil B and Mr Hickling on her personal mobile phone. Witness B also stated that the personal mobile number of Mr Hickling matched that of a contact saved in Pupil B's mobile phone and that there were a number of cancelled calls, both to and from this mobile number.

The panel also heard from Pupil C, who stated that Pupil B and Mr Hickling would exchange messages and that Pupil B had shown Pupil C messages from Mr Hickling on her phone. Pupil C stated that she could not say for certain whether those messages were from Mr Hickling, as Pupil B had previously falsified messages to other pupils, pretending to be someone else.

The panel had sight of the record of Pupil B's interview with the police. In her interview with the police, Pupil B stated that she and Mr Hickling exchanged mobile numbers and then communicated via WhatsApp. The panel noted that Pupil B had provided three separate accounts as to how she had obtained Mr Hickling's mobile number. However, the panel heard evidence from Witness B that Mr Hickling's number was saved in Pupil B's personal mobile phone.

This allegation was also admitted by Mr Hickling in his unsigned response to the notice of referral.

The allegation was therefore, found proved.

b. communicating with Pupil B on social media platforms;

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks stated that Mr Hickling began communicating with Pupil B via social media.

The panel heard from Witness B and Pupil C, as well as had sight of the transcript of Pupil B's police interview, which stated that Mr Hickling and Pupil B communicated through Instagram.

This allegation was also admitted by Mr Hickling in his unsigned response to the notice of referral.

The allegation was therefore, found proved.

c. exchanging inappropriate photographs with Pupil B;

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks stated that Mr Hickling had 'sent more than one picture of yourself on your bed in boxer shorts' and that Pupil B had sent him a picture of her in a revealing sports outfit.

The panel heard from Witness B, who stated that he had seen photographs of a male from the neck down, dressed in boxer shorts, on Pupil B's phone. The panel also heard from Pupil C, who stated that Pupil B had shown her a photograph of a male from the neck down, dressed in boxer shorts, which Pupil B had said was sent to her by Mr Hickling.

The allegation was therefore, found proved.

d. touching Pupil B's legs;

In her interview with the police, Pupil B stated that Mr Hickling had placed his hand on her leg on one occasion, over top of her trousers, when seated next to her in his classroom.

In oral evidence, Pupil C recollected that another pupil, Pupil H, had been upset and had sat underneath one of the desks in the classroom during a lesson. Pupil C had moved to speak to another pupil, and Mr Hickling had sat next to Pupil B, looking at her computer monitor. Pupil C recalled seeing Mr Hickling's arm reach over onto Pupil B's leg, looking like it was on her thigh. Pupil C had then quickly turned back around and continued her conversation with another pupil, but had spoken with Pupil B about the incident afterwards.

The panel also had sight of a written statement from Pupil H, taken as part of the School's investigation, which stated that Pupil H had sat underneath a table as she was upset, and from this position saw Mr Hickling get close to Pupil B and stroke her upper thigh. The panel heard from Pupil C that handwritten statements, made by her and Pupil H, had been made without discussion in front of police officers and Witness B.

The allegation was therefore, found proved.

e. hugging Pupil B;

Mr Hickling admitted this allegation in his response to the notice of referral.

In her interview with the police, Pupil B stated that Mr Hickling had hugged her twice.

The panel heard evidence from Pupil C, who stated that she was stood outside of Mr Hickling's classroom and had seen Mr Hickling hug Pupil B.

The allegation was therefore, found proved.

f. making physical contact with Pupil B's back;

Mr Hickling admitted this allegation, that he made contact with Pupil B's back, in his response to the notice of referral. It is noted in the disciplinary hearing minutes that Mr Hickling had said that he had 'patted' one student on the back one lunchtime as they had answered a lot of questions on 'mymaths' or 'sam learning'.

The panel noted that in her interview with the police, Pupil B stated that Mr Hickling had touched her back one lunchtime and his hand went underneath her shirt.

The allegation was therefore, found proved.

g. making one or more inappropriate comments, by stating to Pupil B words to the effect of;

i. you would prefer Pupil B to wear a skirt;

In her interview with the police, Pupil B stated that Mr Hickling had said in messages that 'he would prefer if I was wearing a skirt'. The panel considered the record contained in the bundle to be a transcript of the interview with the police. Although the panel did not have the opportunity to test that evidence, it considered it likely that Pupil B would have recognised the seriousness of the circumstances in which she was making these statements. The panel did not consider there to be a reason for Pupil B fabricating such a statement.

The allegation was therefore, found proved.

ii. you didn't plan to do anything sexual until Pupil B was older.

In her interview with the police, Pupil B stated that Mr Hickling had said in messages that 'he would resume it when I was older' and later in her interview repeated that Mr Hickling had told her that 'he wasn't planning on doing anything sexual until I was older'. As above in allegation 1.g.i., the panel noted the context in which Pupil B had made such statements to the police.

The allegation was therefore, found proved.

2. Your behaviour as may be found proven at 1 above;

a. was conduct of a sexual nature and/or sexually motivated;

The panel considered whether each of the conduct found proven at allegation 1 was conduct of a sexual nature and/or sexually motivated.

The panel had sight of a certificate of conviction, dated 9 September 2019, which stated that on 31 July 2019 Mr Hickling was convicted for the offence of adult meet a girl under 16 years of age following grooming. The panel noted that in the sentencing remarks, Mr Hickling's conduct had been described as amounting to sexual communication with Pupil B. The panel considered that such conduct, the subject of a grooming offence, to be of a sexual nature and sexually motivated.

The panel also considered that the purpose of Mr Hickling touching Pupil B's leg, hugging Pupil B and touching Pupil B's back, in the circumstances, was to be sexual.

The allegation was therefore, found proved.

b. demonstrated a lack of insight into the concerns which had been raised when you were undertaking work experience at the Ripley Academy in 2013, specifically relating to your contact with pupils and/or use of social media.

The panel heard evidence from Witness A, who had arranged for Mr Hickling to attend work experience in the IT department of Ripley Academy in 2013, during Mr Hickling's university degree and prior to him starting a PGCE.

In his oral evidence, Witness A described how Mr Hickling had contacted a pupil on Facebook one evening, after Facebook had suggested they had something in common. This contact had been reported by the pupil to one of the safeguarding leads at the school the following day and it was decided that Mr Hickling's work experience should be cut short. Witness A stated that he had personally phoned Mr Hickling and explained why his work experience was being cut short, with him having breached the school's policies by contacting a pupil via social media.

Witness A gave direct evidence as to his conversations with Mr Hickling. It had been made clear to Mr Hickling that he had broken the school policy by making contact with a

pupil via social media. The panel considered that this reasoning was understood by Mr Hickling at the time his work experience was cut short. Repeating this behaviour in 2017 in communicating with a pupil via social media demonstrated a lack of insight into this earlier concern.

The allegation was therefore, found proved.

3. You sought to conceal your communication with Pupil B, specifically by;

a. deleting the messages you had exchanged with Pupil B on your mobile phone;

Mr Hickling admitted this allegation in his response to the notice of referral.

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks stated that Mr Hickling had deleted messages from his own telephone.

The allegation was therefore, found proved.

b. asking Pupil B to delete the messages you had exchanged;

Mr Hickling admitted this allegation in his response to the notice of referral.

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks stated that Mr Hickling had asked Pupil B to delete her messages.

The allegation was therefore, found proved.

c. deleting messages from Pupil B's mobile phone.

In her interview with the police, Pupil B stated that Mr Hickling had deleted messages from her phone.

The panel had sight of the sentencing remarks in the bundle, dated 3 September 2019, relating to Mr Hickling's conviction of the offence of adult meet a girl under 16 years of age following grooming.

Those sentencing remarks stated that Mr Hickling had deleted messages from Pupil B's phone on one occasion.

The allegation was therefore, found proved.

4. Your conduct as may be found proven at 3 above lacked integrity and/or was dishonest.

It has been found proven that Mr Hickling had deleted the messages exchanged with Pupil B, asked Pupil B to delete messages and deleted messages himself from Pupil B's phone. The panel considered that, at the time, Mr Hickling was aware that his actions in communicating with Pupil B were wrong and would have serious consequences if others were aware of it happening. The panel did not consider that there were any other reasonable explanations for Mr Hickling's actions, other than to cover up his wrongdoing. The panel considered that Mr Hickling had deliberately tried to destroy evidence of his wrongdoing. By the standards of the ordinary honest person, the panel considered such actions to be dishonest.

The panel accepted the legal adviser's advice that the concepts of dishonesty and want of integrity are separate and distinct. Integrity connotes adherence to the ethical standards of one's own profession that involves mere honesty. The panel considered that, in asking Pupil B to delete messages and deleting messages himself, Mr Hickling had shown a lack of integrity. Mr Hickling knew that Pupil B had vulnerabilities, yet engaged in sexual communication with her and later deleted messages to hide his wrongdoing.

The allegation was therefore, found proved.

5. On or around 31 July 2019, you were convicted at Nottingham Crown Court for the offence of adult meet a girl under 16 years of age following grooming, for which you were sentenced at Lincoln Crown Court on 3 September 2019 to 9 months imprisonment (suspended for 12 months), required to undertake a rehabilitation activity requirement of 10 days, ordered to undertake 150 hours of unpaid work before 2 September 2020 and required to pay a victim surcharge of £140.

The panel had sight of a certificate of conviction, dated 9 September 2019, which stated that on 31 July 2019 Mr Hickling was convicted for the offence of adult meet a girl under 16 years of age following grooming.

The allegation was therefore, found proved.

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 Hickling, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Hickling 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.

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 Hickling, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”), in force at the time of Mr Hickling’s conduct. The panel considered that Mr Hickling was in breach of the following provisions: providing a safe environment for children to learn, following the safeguarding process in relation to concerns about a child’s welfare and adhering to the school’s policies in respect of safeguarding and staff conduct.

The panel was satisfied that the conduct of Mr Hickling fell significantly short of the standard of behaviour expected of a teacher. Mr Hickling’s conduct had been sexually motivated and he had directly contravened the Teachers’ Standards and school policies. Although the panel considered that the previous incident in 2013, in and of itself, did not amount to unacceptable professional conduct as Mr Hickling had not yet started his teacher training, the panel considered the lack of insight, shown in again communicating with a pupil via social media despite the previous warning and further safeguarding training received, to fall below the standards expected of a teacher.

The panel also considered whether Mr Hickling’s conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of sexual communication with a child was relevant. The panel noted that Mr Hickling was convicted of the offence of adult meet a girl under 16 years of age following grooming, and was sentenced to 9 months imprisonment, suspended for 12 months.

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.

The panel noted that the allegations 1a and 1b took place outside the education setting. The panel considered this conduct to affect the way Mr Hickling fulfilled his teaching role as Mr Hickling knew Pupil B due to teaching her and his conduct resulted in a criminal conviction. The conduct impacted the pupil and teacher relationship between Pupil B and Mr Hickling.

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

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 panel also considered whether Mr Hickling's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of sexual communication with a child was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

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.

The panel considered that Mr Hickling's conduct could potentially damage the public's perception of a teacher.

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

Having found the facts of the allegations proved, the panel further found that Mr Hickling'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Hickling and whether a prohibition order is necessary and proportionate. 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, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct within the teaching profession. The panel also found the interest of retaining the teacher in the profession to be relevant.

In the light of the panel's findings against Mr Hickling, which involved conduct of a sexual nature and conduct that was sexually motivated, dishonesty and a lack of integrity in deleting messages between himself and Pupil B and being convicted of the offence of adult meet a girl under 16 years of age following grooming, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of an inappropriate relationship with a child. However, the panel noted the comments in the sentencing remarks that Mr Hickling was of low likelihood to re-offend and as such placed less weight on this public interest consideration.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hickling 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 Hickling was outside that which could reasonably be tolerated.

The panel decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession.

Whilst there is evidence that Mr Hickling had ability as an educator, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Hickling in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The

panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

serious departure from the personal and professional conduct elements of the Teachers' Standards;

the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are "relevant matters" for the purposes of the Police Act 1997 and criminal record disclosure;

misconduct seriously affecting the education and/or safeguarding and well-being of pupils;

abuse of position or trust (particularly involving vulnerable pupils)

an 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;

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 or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests;

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

The panel considered Mr Hickling's actions to be deliberate and there was no evidence to suggest that Mr Hickling was acting under extreme duress.

Mr Hickling did have a previously good history as a teacher and the panel saw no evidence that showed Mr Hickling was previously subject to disciplinary proceedings.

Although the panel had sight of references made in the context of Mr Hickling's application for his position at the School, the panel noted that there were no recent references provided from colleagues that could attest to his abilities as a teacher.

The panel noted that Mr Hickling was a relatively inexperienced teacher, having taught at the School for just two years following his teacher training.

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 Hickling 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 Hickling. Mr Hickling had been convicted of the offence of adult meet a girl under 16 years of age following grooming, which 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, eg 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 and any sexual misconduct involving a child. The panel found that Mr Hickling was responsible for engaging in sexually motivated conduct with Pupil B and he had been convicted of an offence which involved sexual communication with a child.

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. The panel considered none of these to be relevant.

The panel did not see any evidence that Mr Hickling had shown insight into his actions. However, the panel noted that it was stated in the sentencing remarks that the pre-

sentencing report concluded that Mr Hickling was at low risk of re-offending and that the judge did not think that Mr Hickling would ever re-offend. Despite the conduct occurring over a limited period of time and it being acknowledged in the sentencing remarks that overt sexual contact was not present in this case, the panel considered that the offence was of such a serious nature, that public confidence in the profession would be seriously undermined if Mr Hickling was permitted to return to the teaching profession.

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 Tyler Hickling should be the subject of a prohibition order, with no provision for a review period.

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

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

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions

Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.

Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was also, "satisfied that the conduct of Mr Hickling, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education ("KCSIE"), in

force at the time of Mr Hickling's conduct. The panel considered that Mr Hickling was in breach of the following provisions: providing a safe environment for children to learn, following the safeguarding process in relation to concerns about a child's welfare and adhering to the school's policies in respect of safeguarding and staff conduct."

The findings of misconduct are particularly serious as they include a finding of misconduct of a sexual nature and dishonesty.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether 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 Hickling, 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 children and safeguard pupils. The panel has observed, " In the light of the panel's findings against Mr Hickling, which involved conduct of a sexual nature and conduct that was sexually motivated, dishonesty and a lack of integrity in deleting messages between himself and Pupil B and being convicted of the offence of adult meet a girl under 16 years of age following grooming, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of an inappropriate relationship with a child. However, the panel noted the comments in the sentencing remarks that Mr Hickling was of low likelihood to re-offend and as such placed less weight on this public interest consideration." I have given this point careful consideration and weight.

I have also noted the panel's comment, "Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hickling were not treated with the utmost seriousness when regulating the conduct of the profession."

The panel say that it, "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 Hickling was outside that which could reasonably be tolerated."

The panel also, "decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession."

I have noted that the panel say, “Whilst there is evidence that Mr Hickling had ability as an educator, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Hickling in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.”

The panel further, “considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher’s behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.”

In my view, balancing out all these issues, a prohibition order would prevent such 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, “The panel did not see any evidence that Mr Hickling had shown insight into his actions. However, the panel noted that it was stated in the sentencing remarks that the pre-sentencing report concluded that Mr Hickling was at low risk of re-offending and that the judge did not think that Mr Hickling would ever re-offend. Despite the conduct occurring over a limited period of time and it being acknowledged in the sentencing remarks that overt sexual contact was not present in this case, the panel considered that the offence was of such a serious nature, that public confidence in the profession would be seriously undermined if Mr Hickling was permitted to return to the teaching profession.” In my judgement, the lack of full insight and remorse and the serious nature of the misconduct found mean that the overall future wellbeing of pupils is at risk. 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, “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 conduct that may bring the profession into disrepute.

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.

The panel considered that Mr Hickling’s conduct could potentially damage the public’s perception of a teacher.”

I am particularly mindful of the finding of 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 Hickling himself. The panel comment, “Although the panel had sight of references made in the context of Mr Hickling’s application for his position at the School, the panel noted that there were no recent references provided from colleagues that could attest to his abilities as a teacher.

The panel noted that Mr Hickling was a relatively inexperienced teacher, having taught at the School for just two years following his teacher training.”

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

In this case, I have placed considerable weight on the panel’s comments concerning the behaviour, “These cases include serious sexual misconduct, eg 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 and any sexual misconduct involving a child. The panel found that Mr Hickling was responsible for engaging in sexually motivated conduct with Pupil B and he had been convicted of an offence which involved sexual communication with a child.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Hickling 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, 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 “Despite the conduct occurring over a limited period of time and it being acknowledged in the sentencing remarks that overt sexual contact was not present in this case, the panel considered that the offence was of such a serious nature, that public confidence in the profession would be seriously undermined if Mr Hickling was permitted to return to the teaching profession.”

I have considered whether allowing for no review reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors that mean that a no review is necessary are the nature of the misconduct 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 Tyler Hickling 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 Tyler Hickling 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 Tyler Hickling 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 blue ink, appearing to read 'Alan Meyrick', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 29 July 2022

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