



Teaching
Regulation
Agency

**Warning: this document contains explicit
language which some people may find offensive**

Mr Thomas Marshall Professional conduct panel outcome

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

January 2020

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

Teacher: Mr Thomas Paul Marshall

Teacher ref number: 3741789

Teacher date of birth: 21 March 1973

TRA reference: 17074

Date of determination: 21 January 2020

Former employer: Fosse Way School, Radstock (“the School”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 20 January 2020 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Thomas Marshall.

The panel members were Mr Peter Cooper (teacher panellist – in the chair), Ms Hilary Jones (lay panellist) and Mrs Mahfia Watkinson (lay panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the TRA was Mr Ben Chapman of counsel.

Mr Marshall 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 August 2019.

It was alleged that Mr Thomas Marshall was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a class teacher at Fosse Way School between April 2014 and January 2018, he, on one or more occasions:

1. Used inappropriate and / or offensive language towards and / or in the presence of one of more students including by using words such as:
 - i. cunt and / or fat cunt;
 - ii. buggar and / or dick head;
 - iii. retard.
2. Engaged in inappropriate physical contact towards Pupil A including by:
 - i. putting and / or stamping his foot on top of Pupil A's foot;
 - ii. taking hold of Pupil A and / or pushing and / or pulling them in order to move them.

Mr Marshall denied the allegations and it was therefore taken that he also denied unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to proceed in the absence of Mr Marshall

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

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 dated 13 August 2019 ("the Notice") had been sent in accordance with Rules 4.11 and 4.12 of the 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 Marshall'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 has given careful consideration to the fact that Mr Marshall is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to him as a consequence.

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

- Mr Marshall has not sought an adjournment and there is no medical evidence before the panel which indicated that Mr Marshall was unfit to attend the hearing due to ill-health.
- In emails of November 2018 and January 2020, Mr Marshall had confirmed that he would not in in attendance for the hearing and would not be instructing legal representation.
- Some of Mr Marshall's emails were in response to emails from the TRA's solicitors, which clearly stated the date of the hearing.
- The panel was therefore satisfied that Mr Marshall's absence was voluntary and he had waived his right to attend.
- The risk of reaching the wrong conclusion and the disadvantage to Mr Marshall in not being present are mitigated by the fact that he had provided a written response to the concerns. The panel also noted that, whilst undeniably serious, the relevant issues in the case were relatively narrow.
- There was no indication that Mr Marshall 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 will strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mr Marshall is not present or represented.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notice of Proceedings, response and responses – pages 5 to 18

Section 3: Teaching Regulation Agency witness statements – pages 20 to 35

Section 4: Teaching Regulation Agency documents – pages 37 to 209

Section 5: Teacher documents – pages 211 to 214

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:

- Witness A, [REDACTED] at the School;
- Witness B, [REDACTED] at the School;
- Witness C, [REDACTED] at the School.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Since February 2014, Mr Marshall had been employed at the School, a school for pupils with additional and Special Educational Needs (“SEN”), as a Post 16 teacher. In May 2017, concerns were raised by a colleague of Mr Marshall that he was using inappropriate language and inappropriate physical contact with pupils. The police became involved and determined that no criminal charges should be brought against Mr Marshall.

Following an internal disciplinary proceeding, Mr Marshall was dismissed from his role in January 2018.

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 used inappropriate and / or offensive language towards and / or in the presence of one of more students including by using words such as:

- i. cunt and / or fat cunt;**
- ii. buggar and / or dick head;**
- iii. retard.**

The panel heard live evidence on this allegation from Witness A, [REDACTED] at the School.

Witness A explained that the School provided education to pupils with SEN and whilst the amount of assistance each pupil required differed, all had high degrees of necessity. Witness A stated that the pupils were, in the main, non-verbal and unable to express themselves but were not mentally unaware.

Witness A explained to the panel that she had been [REDACTED] in Mr Marshall's class [REDACTED] and that he would swear on a daily basis. The class contained five pupils, including Pupils A, B and C.

Witness A described an incident that took place between Mr Marshall and Pupil C during 'snack time'. Witness A said that Pupil C was 'tall, biggish build who liked his food' and could repeat words that had been said to him.

Witness A explained that 'snack time' was a break during the morning, when pupils could have something to eat, such as toast. On one occasion, Mr Marshall had directly said to Pupil C that he was a '*fat cunt*' when the pupil was asking for more food. Witness A was adamant that this had been said directly to the pupil and was not 'hushed' in any manner. She was clear that this sort of behaviour was bullying and took place regularly.

Witness A also gave evidence as to the events that took place during a School trip to Sainsburys. She explained that it was a regular occurrence for pupils to spend a small amount of cash on sweets or food for snack time, and that they would be driven, in the School's minibus, to a local supermarket.

Whilst Witness A could not recall the exact date of the incident, she explained that it occurred at some point in the Spring Term 2017. Mr Marshall had driven the pupils in the minibus to, and from, Sainsburys, accompanied by Witness A and [REDACTED]. When

they arrived back at the School, Mr Marshall said to her, in a tone loud enough to be heard by the pupils at the front of the vehicle, "*Let's get these cunts off the bus*".

Witness A accepted that not all of the pupils may have fully understood the language used by Mr Marshall but were capable of repeating it.

Witness A was also questioned on the apparent discrepancy in her live evidence compared to an email from the investigating police officer, which stated that Witness A '...cannot speak to Thomas Marshall about the swearing'.

In her evidence, Witness A explained that she did speak to a police officer by telephone in respect of the concerns. She told the panel that she was clear to the officer that Mr Marshall did swear but, as it happened on a regular basis, she could not provide specific dates to the officer as to when it occurred. Witness A reiterated to the panel that she did hear Mr Marshall swear at pupils on a number of occasions and had said that to the officer.

Witness A accepted that she did not particularly like Mr Marshall and thought that he displayed a bullying attitude towards the pupils and others. Nevertheless, she was also clear that she had not made up any of her evidence to the panel.

The panel also heard live evidence on this matter from Witness B, [REDACTED] at the School. Witness B accepted that she did not have a close, working relationship with Mr Marshall. She would only work with him on one or two occasions per week and it was entirely possible that, by the beginning of the next academic year, she may have been moved to a different part of the School, away from Mr Marshall. There was therefore no motive for fabricating any of her evidence.

Witness B described the pupils as being particularly sensitive to touch or noise both of which may have the potential to trigger a significant response and cause distress. She explained to the panel that her regular class would often share hydro-pool sensory lessons with Mr Marshall's regular class. In December 2016, she described an incident when Mr Marshall had lent goggles to Pupil B, which had broken whilst being used. Witness B stated that Mr Marshall said something along the lines of "...I cannot believe you have broken my goggles, you buggar".

Witness B described this comment as causing Pupil B to 'tense up' and Pupil C to start repeating "*oh it's broken, it's broken*". Pupil C said this repetitively, which visibly irritated Mr Marshall and he threw the goggles across the room.

Following the incident, Witness B raised a concern by email to the vice-principal. Within this email, she said that the word used was 'dick head' rather than 'buggar'. In evidence, Witness B was clear in her recollection that 'buggar' was used by Mr Marshall and 'dick head' was a mistake due to the stress of dealing with the situation. She was, however, adamant that Mr Marshall had sworn at Pupil B.

Witness B also explained a separate incident she witnessed at the swimming pool, which involved Mr Marshall and Pupil A. When the pupils were in the showers, Mr Marshall put soap on Pupil A's private parts, a practice not approved of by the School nor part of his care plan. Witness B said this to Mr Marshall who replied, in front of the pupil, "yes, but this retard really stinks...his cock really fucking stinks and the smell is unbearable...". Witness B also stated that Pupil B would have heard Mr Marshall's comments.

The panel also received live evidence from Witness C, [REDACTED] at the School. Whilst she did not provide any specific examples of Mr Marshall using inappropriate language, she did confirm that he would regularly swear in front of pupils, including calling them 'retards' and 'shit-heads.'

The panel also had the benefit of a signed statement from Individual A, [REDACTED] at the School. Within this statement, Individual A explained that she had regularly heard Mr Marshall use the word 'cunt', either directed specifically at pupils or in their presence.

In Individual A's view, whilst pupils may not fully understand the meaning of the word, the pupils would have appreciated that it was not a pleasant word and would understand the tone and aggression in its use.

Mr Marshall did not attend the hearing to give live evidence to the panel but did provide an undated written response to the allegations ('the Response').

Within the Response, Mr Marshall accepted swearing but only when with '*trusted colleagues and friends*' and not when pupils were present. He explained that he would swear more after times of stress but reiterated that this was not in the presence of pupils.

In the light of the Response, the panel determined that Mr Marshall would have disagreed with the TRA's live witness evidence, which was contrary to his position.

In the panel's view, all of the TRA's live witnesses gave evidence in a clear and consistent manner, despite it not being an exercise that Witness A or Witness B particularly wanted to have to go through. They were each adamant as to what Mr Marshall had said to pupils and there was no concern that they may have misremembered events.

The panel also gave some weight to the witness statement from Individual A and her evidence, as she had been willing to attend as a witness but was unable to [REDACTED].

When questioned, each of the witnesses confirmed that there was no reason to fabricate their evidence and that they had no personal grudge against Mr Marshall, except in respect of his behaviour towards the pupils. Indeed, Witness A gave credit to Mr Marshall with regard to him encouraging Pupil A [REDACTED] to increase his movement.

On this allegation, the panel preferred the clear, unequivocal evidence of the TRA's witnesses who had attended to give live evidence, over that of Mr Marshall's written representations. The panel did not accept that there was any evidence of collusion between the TRA's witnesses and determined that those instances of Mr Marshall using the language alleged, did take place.

The words that formed allegation were clearly inappropriate and offensive, even if they had not been directed at pupils. The fact that the pupils may not have understood the language was not a relevant consideration.

On the basis of the above, the panel found this allegation proved except for the term 'dick head' being used.

2. You engaged in inappropriate physical contact towards Pupil A including by:

i. putting and / or stamping his foot on top of Pupil A's foot;

ii. taking hold of Pupil A and / or pushing and / or pulling them in order to move them.

The panel heard live evidence on this allegation from Witness A. Witness A explained to the panel that Pupil A was capable of walking normally but would often 'shuffle' around in order to get some attention. She said that if Pupil A was ignored, he would often stop this behaviour and start to walk normally again.

Witness A said that on one or more occasions, she had witnessed Mr Marshall 'stamping' on Pupil A's foot. She said that this was a deliberate act and demonstrated the movement to the panel, which involved her leg being raised and her foot brought down quickly, with a degree of force.

Witness A told the panel that any sort of physical contact with the pupils should be minimised as much as possible and avoided unless there was an emergency. She had not seen Pupil A's care plan but did not consider Pupil A's foot being 'tapped' by a teacher's foot as being an appropriate method of controlling the pupil's tendencies.

Witness A said that she had seen Mr Marshall 'stomp' on Pupil A's foot on more than one occasion but would only do it around teaching assistants. Despite having reported her concerns to more senior staff, she explained that she felt a bit of a 'coward' in not ensuring that the matter had been dealt with, a situation she now regretted.

Witness B also gave evidence to the panel. She explained that Mr Marshall was trained in Strategies for Crisis Intervention and Prevention ('SCIP'), a technique to minimise any

distress to pupils and promote safe handling should a physical intervention be needed. Mr Marshall was, in fact, one of the SCIP trainers at the School.

The SCIP technique included only touching pupils with 'Lego hands' on specific parts of the pupil's upper or lower arms. Witness B was clear that this touching should not be around the joints, i.e. wrist or elbow, because of the weaknesses there, nor under the arm-pits as this can lead to an epileptic attack for some pupils.

Despite Mr Marshall being trained in SCIP, Witness B explained that she had witnessed him picking Pupil A off the floor by holding his arms and moving the pupil [REDACTED] roughly and using spread fingers, rather than 'Lego hands'.

The panel also heard live evidence from Witness C. She explained that she had witnessed Mr Marshall 'hoiking' Pupil A off the floor. In live evidence, she further explained that this involved Mr Marshall lifting Pupil A from under his armpits and this manoeuvre would never be part of an approved care plan. She had witnessed Mr Marshall using non-SCIP techniques on Pupil A on a few occasions and other members of staff had reported similar concerns to her.

In the Response, Mr Marshall denied ever harming a student but said that he had been harmed himself in the past by students. He further stated that there was no corroboration of any of the allegations, which were contradicted by other statements. No specific reference was given to the 'other statements' by Mr Marshall.

As for the previous allegation, each of the TRA's witnesses gave evidence in a clear manner. Witness A was clear, both in her oral evidence and action demonstrated, that the 'stomp' was deliberate and would not have formed part of any care plan. Similarly, Witness B and Witness C were adamant that the physical contact between Mr Marshall and Pupil A was inappropriate.

For the same reasons as for the previous allegation, the panel preferred the TRA's live evidence over that of Mr Marshall. There could be no proper defence for a teacher to deliberately stamp on a pupil's foot and can only be seen as inappropriate.

Similarly, the panel considered that the mishandling of Pupil A, which was in excess of what could ever be seen as acceptable, was inappropriate.

The panel therefore found this allegation proved.

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

Having found both 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 Marshall, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Marshall 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 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 also considered whether Mr Marshall's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice and found that none of these offences was relevant.

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.

In the panel's opinion, the behaviour of Mr Marshall was unacceptable, both physically and verbally, and aggravated by being directed at particularly vulnerable pupils who were unable to express themselves or report his actions.

The panel was satisfied that the conduct of Mr Marshall amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. The panel therefore found Mr Marshall's behaviour amounted to both unacceptable 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 protection of pupils;
- the protection of other members of the public;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct;
- the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Marshall, which involved him using derogatory swear words directed at pupils who were particularly vulnerable and unable to express any objection, public confidence could be seriously weakened if conduct such as that found against Mr Marshall was not treated with the utmost seriousness when regulating the conduct of the profession.

There was a strong public interest consideration in respect of the protection of pupils, given the serious findings of Mr Marshall's inappropriate physical contact against Pupil A. Similarly, the panel considered his behaviour with colleagues, which included swearing at them, suggested that other members of the public needed to also be protected.

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 Marshall was outside that which could reasonably be tolerated.

Nevertheless, the panel decided that there was some public interest consideration in retaining Mr Marshall 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. The panel noted that, up until the final academic year, Mr Marshall's appraisals were all positive and indicated that he was making impressive progress.

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 Marshall.

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 Marshall. 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 well-being of pupils, and particularly where there is a continuing risk;
- a deep-seated attitude that leads to harmful behaviour;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;

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.

In the light of the panel's findings, there was no evidence that Mr Marshall's actions were not deliberate or that he was acting under duress. The panel did, however, note that he had a previously good history.

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 to Mr Marshall 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 Marshall.

In the panel's view, Mr Marshall's conduct can only be viewed in the most serious manner. He was physically and verbally abusive against pupils who had no voice and relied on their teacher to ensure their safety and be a voice for them. Mr Marshall consistently failed to do so, over a period of time, with a number of pupils.

Whilst Mr Marshall was a relatively new teacher, his actions were not misjudgements as to what was appropriate, due to his inexperience. There was some suggestion from the TRA's witnesses that Mr Marshall was going through some personal issues, but these were not issues that were so extreme to excuse his conduct that involved deliberate acts, over a period of time, against vulnerable children.

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 two years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period and the panel found none of these to be present.

Throughout all of the proceedings, Mr Marshall has denied all of the allegations and, at times, sought to divert any blame away from himself. As a result, it necessarily follows that he has not demonstrated any remorse or insight into his conduct, nor has he expressed any desire in returning to teaching at any stage.

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 (with the exception of the use of the term 'dick head') and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, because the panel did not find that the term 'dick head' was used, I have put that matter entirely from my mind.

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

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

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

The findings of misconduct are particularly serious as they include a finding of breaching the standard of showing tolerance of and respect for the rights of others.

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 Marshall and the impact that will have on him, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “the behaviour of Mr Marshall was unacceptable, both physically and verbally, and aggravated by being directed at particularly vulnerable pupils who were unable to express themselves or report his actions.”

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, “Throughout all of the proceedings, Mr Marshall has denied all of the allegations and, at times, sought to divert any blame away from himself. As a result, it necessarily follows that he has not demonstrated any remorse or insight into his conduct”. In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that it “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”.

I am particularly mindful of the finding of failure to show respect for the rights of others 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 Marshall himself. The panel observe, “that, up until the final academic year, Mr Marshall's appraisals were all positive and indicated that he was making impressive progress”.

A prohibition order would prevent Mr Marshall 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, "Mr Marshall's conduct can only be viewed in the most serious manner. He was physically and verbally abusive against pupils who had no voice and relied on their teacher to ensure their safety and be a voice for them. Mr Marshall consistently failed to do so, over a period of time, with a number of pupils."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Marshall 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 "There was a strong public interest consideration in respect of the protection of pupils, given the serious findings of Mr Marshall's inappropriate physical contact against Pupil A. Similarly, the panel considered his behaviour with colleagues, which included swearing at them, suggested that other members of the public needed to also be protected".

I have considered whether allowing for a no review period reflects the seriousness of the findings and is proportionate and necessary to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that a no review period if proportionate and necessary are the lack of respect of the rights of others, the failure to treat vulnerable pupils with dignity where they were unable to express themselves or report his actions and the lack of either insight or remorse.

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

This means that Mr Thomas Marshall 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 Thomas Marshall 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 Thomas Marshall 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 dark ink, appearing to read 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 24 January 2020

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