



Teaching
Regulation
Agency

Mr Luke Snoswell: Professional conduct panel outcome

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

October 2019

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

Teacher: Mr Luke Snoswell

Teacher ref number: 1165048

Teacher date of birth: 7 June 1985

TRA reference: 17233

Date of determination: 2 October 2019

Former employer: Wellington Academy, Wiltshire and Fair Ways School, Hampshire

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 30 September 2019 to 2 October 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Luke Snoswell.

The panel members were Mr Ian Carter (teacher panellist – in the chair), Mrs Caroline Tilley (lay panellist) and Mr Paul Hawkins (teacher panellist).

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

The presenting officer for the TRA was Ms Kayleigh Brooks of Ropewalk Chambers.

Mr Snoswell was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 13 May 2019.

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

1. Whilst employed as a teacher at the Fair Ways School in Hampshire from January 2015 to March 2018 he engaged in inappropriate behaviour towards one or more of his female colleagues, including:
 - a. Individual A in or around June 2016, in that he:
 - i. grabbed Individual A's waist and/or pulled Individual A towards himself
 - ii. discussed sexual intercourse and/or indicated that he wanted to have sexual intercourse with Individual A
 - iii. made comments regarding Individual A's appearance
 - iv. told Individual A to bend over and/or suggested that he wanted to "break her in half" or used words to that effect
 - b. Individual B in or around June 2016, by commenting, "I could have bent you over and fucked you up the arse" or used words to that effect
 - c. Individual C via WhatsApp in or around November 2016, specifically by sending one or more messages commenting:
 - i. *"Think i just need to really get laid lol Tinder not doing me any favours"* or using words to that effect
 - ii. *"Wana get drunk with me and break some bed strings sometime"* or using words to that effect
2. His conduct as may be found proven at allegation 1 included:
 - a. unwanted physical and/or sexual contact with one or more of his female colleagues
 - b. sexual harassment of one or more of his female colleagues
 - c. conduct that was of a sexual nature and/or was sexually motivated

3. Whilst applying for the role of Head of Physics at the Wellington Academy in Wiltshire he provided false and/or misleading information, including by:
 - a. informing the Director of Science on or around 22 March 2018 that he had been 'fired' from the Fair Ways School due to a single incident and/or in respect of his behaviour towards a single individual whereas in fact his dismissal had been in relation to multiple incidents and/or in relation to multiple individuals
 - b. informing the Director of Science on or around 22 March 2018 that he had not been subject to disciplinary proceedings at the Fair Ways School, when in fact he had been
4. His conduct as may be found proven at allegation 3 above lacked integrity and/or was dishonest
5. Whilst employed as the Head of Physics at the Wellington Academy in Wiltshire, from April 2018 to July 2018, he made one or more inappropriate comments and/or actions, towards and/or in the presence of students, in the course of a lesson on or around 23 May 2018, in particular:
 - a. stating Pupil J was "*assuming the position*" or using words to that effect when Pupil J was leant forward over a table
 - b. thrusting to simulate sexual activity with Pupil J
 - c. stating "*I like my coffee like I like my men*" or words to that effect
 - d. implying that he had a sexual preference for "*black*" men
 - e. encouraging and/or suggesting that Pupil K should engage in sexual activity with another pupil
 - f. discussing the loss of virginity and/or referring to losing virginity by placing his finger in his mouth to make a popping sound
 - g. commenting on Pupil J and Pupil H's relationship
 - h. using the phrase "*up the bum*" or words to that effect
 - i. hugging one or more pupils
 - j. asking Pupil N to the school prom and/or offering to be her "*prom date*"
 - k. suggesting that he would treat Pupil N "*right*" by buying her flowers

6. His behaviour as may be found proven at allegation 5 above was conduct of a sexual nature and/or was sexually motivated

The teacher admitted allegations 1.b., 1.c., 2.b., 2.c., 5.c., and 5.d. The teacher admitted that the admitted allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The teacher denied the remaining allegations.

C. Preliminary applications

Proceeding in absence

The panel considered an application from the presenting officer that the hearing should continue in the absence of the teacher.

The panel was satisfied that the TRA 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 understood 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 making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The panel noted that the teacher responded by email on more than one occasion, and had indicated he would not attend. He also consented in writing to the hearing continuing in his absence. The panel therefore considered that the teacher waived his right to be present at the hearing in the knowledge of when and where the hearing was to take place.

The panel had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place.

There was no indication that an adjournment might result in the teacher attending the hearing.

The panel had regard to the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him. The panel noted it had the benefit of written representations made by the teacher and was able to ascertain his lines of defence. The panel had some evidence from the teacher addressing mitigation and was able to take this into account at the relevant stage. The panel noted that the presenting officer was calling four witnesses to give evidence. The panel could test that evidence in questioning those witnesses, considering such points as were favourable to the teacher, as were reasonably available on the evidence.

The panel did not identify any significant gaps in the documentary evidence provided to it. However, in considering whether the presenting officer had discharged the burden of proof, the panel was mindful that should such gaps arise during the course of the hearing, it would take these into account. The panel would then consider whether the hearing should be adjourned to enable such documents to become available.

The panel noted that it would also be able to exercise vigilance in making its decision taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel also noted that there were two child witnesses and two adult witnesses present at the hearing, who were prepared to give evidence. It was mindful of the potential inconvenience and distress to them if the hearing was adjourned.

The panel had regard to the seriousness of this case, and the potential consequences for the teacher and accepted that fairness to the teacher is of prime importance. However, it 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 the inconvenience an adjournment would cause to the witnesses; that on balance, these were serious allegations and the public interest was in this hearing proceeding.

Amending the allegations

The presenting officer made an application to amend the Notice of Proceedings by:

- 1) amending the name of [REDACTED], to Wellington Academy in Wiltshire in allegations 3 and 5; and

2) amending allegation 3.a. by amending the word “indents” to “incidents”.

During the course of the hearing, the panel also noted the following typographical errors within the allegations:

3) amending allegation 5.c. by replacing the word “affect” with “effect”; and

4) removing the word “a” from the stem of allegation 5

The panel noted it has 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 noted it is required to consider any representations by the presenting officer and by the teacher, and the parties have been afforded that opportunity. The teacher consented to the application in respect of points 1) and 2) above.

The teacher was not present at the hearing and did not have the opportunity to comment on the proposed amendments to 3) and 4) above.

The panel considered that the four amendments proposed were corrections of typographical errors and clarification of a school’s name, and therefore 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 amendments been made at an earlier stage, and therefore no unfairness or prejudice was caused to the teacher. The panel therefore decided to amend the allegations as proposed.

D. Summary of evidence

Documents

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

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

Section 2: Notice of Proceedings and Response – pages 6 to 24

Section 3: Teaching Regulation Agency witness statements – pages 26 to 45

Section 4: Teaching Regulation Agency documents – pages 47 to 281

Section 5: Teacher documents – pages 283 to 292

In addition, the panel agreed to accept the following:

Signed copy of the second statement of Individual B – replaced page 32

Emails from Mr Snoswell to the TRA dated 23 September 2019 and 29 September 2019 – pages 293 to 299

The panel members confirmed that they had read all of the documents in advance of the hearing, including those additional documents which were admitted.

Witnesses

The panel heard oral evidence from Individual A from Fair Ways School and Pupil J, Pupil H and the Director of Science from the Wellington Academy in Wiltshire, called by the presenting officer.

E. Decision and reasons

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

Mr Snoswell was employed at the Fair Ways School in January 2015 as a science teacher. It is alleged that on a night out with colleagues, Mr Snoswell made inappropriate sexual comments to two female members of staff. On a separate occasion, it is alleged that he sent inappropriate text messages to another female member of staff. It is further alleged that these comments were of a sexual nature or were sexually motivated.

Following an investigation into these allegations, Mr Snoswell was ultimately dismissed by the Fair Ways School.

During the Fair Ways School's investigation and subsequent disciplinary procedure which resulted in Mr Snoswell's dismissal, Mr Snoswell applied for, and was successful in being appointed to, the role of Head of Physics at Wellington Academy in Wiltshire. It is alleged that Mr Snoswell was dishonest in his disclosure to the school about the nature of his dismissal.

When teaching a class at the Wellington Academy in Wiltshire, it is alleged that Mr Snoswell made a series of inappropriate comments. It is alleged that these comments were of a sexual nature or sexually motivated.

Findings of fact

The findings of fact are as follows:

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

1. Whilst employed as a teacher at the Fair Ways School in Hampshire from January 2015 to March 2018 you engaged in inappropriate behaviour towards one or more of your female colleagues, including:

a. Individual A in or around June 2016, in that you:

- i. grabbed Individual A's waist and/or pulled Individual A towards you**
- ii. discussed sexual intercourse and/or indicated that you wanted to have sexual intercourse with Individual A**
- iii. made comments regarding Individual A's appearance**
- iv. told Individual A to bend over and/or suggested that you wanted to "*break her in half*" or used words to that effect**

The panel heard oral evidence by video from Individual A, in addition to considering the written statement of Individual A dated 21 January 2019 and the notes of her interview with Fair Ways School during their investigation into these allegations.

The panel found Individual A to be a credible and consistent witness.

Individual A gave oral evidence that she had planned to go out for drinks after work with some work colleagues in approximately June 2016. After returning home to get ready for the evening out, she met a female colleague and they went to meet the rest of the work group at a bar.

Approximately 45 minutes after she arrived, Individual A stated that Mr Snoswell approached her and said, "*you look hot*". Individual A stated that she felt uncomfortable about this comment.

Individual A went on to confirm that during the course of the evening, Mr Snoswell made increasingly sexualised and graphic comments towards her and that at one point, he grabbed her waist. Individual A stated that she tried to avoid Mr Snoswell for the remainder of the evening, confiding in two work colleagues about the comments and actions that evening in order to enlist their assistance in avoiding him.

The panel carefully considered the written evidence of the two teachers that Individual A confided in during the course of the evening out. The panel noted that neither teacher

had actually heard the comments however both confirmed that Individual A was upset and that she had told them about the comments that evening.

On returning home, Individual A stated that she spoke to both her husband and her mother about the comments.

Individual A further raised her concerns about Mr Snoswell's actions to the headteacher during her next one to one supervision session, however at this time, she did not wish to take any further action against Mr Snoswell as his work location was due to change and she would not be working on the same site as him in the new academic year. Individual A stated that she raised her concerns formally after the school asked her to work with Mr Snoswell at the second site and she was fearful of working with him again.

Individual A went on to state that as a consequence of his actions, *"he made me feel as though I had done something wrong. And it meant that I misjudged a lot of my relationships with colleagues [after that]"*. The panel also noted that for example, Individual A subsequently declined invitations to work social events, such as the Christmas party, at which she thought Mr Snoswell would be present.

The panel placed significant weight on the evidence collated during the school's investigation (which was conducted by an independent third party) which it considered to be thorough, fair and comprehensive in its approach.

The panel had regard to the written evidence of Mr Snoswell, who categorically denied that these events took place. In particular, the panel considered the notes of the school's investigation in which Mr Snoswell put forward the suggestion that, *"It's not beyond the realms of possibility that [Individual A] who regularly goes out with 2 of the other people that were interviewed for girls' nights out. It's even possible that they could get their stories straight beforehand"* and, *"I think it is worth mentioning that I think these people have colluded."*

The panel did not find Mr Snoswell's version of events credible and there was no evidence to support his assertion that his colleagues had colluded.

The panel found this allegation proven on the balance of probabilities.

b. Individual B in or around June 2016, by commenting, *"I could have bent you over and fucked you up the arse"* or used words to that effect;

Mr Snoswell admitted this allegation in his statement dated 10 April 2018, stating that it was part of a *'larger conversation that was had with [Individual B] where sexualised and*

flirtatious comments were made backwards and forwards between both of us.' Mr Snoswell also stated that these comments were not made on school premises.

The panel further noted Mr Snoswell's statement that *'...these are comments I would absolutely not make again and am very regretful of.'*

The panel carefully considered the written evidence of Individual B who confirmed that Mr Snoswell made the comment to her on the work night out in June 2016 and that she *'didn't want to get into an argument on a night out and [she] was completely taken aback by this brash and totally perverse comment to a married woman from a married man. [Individual B] was very unhappy and angry that Mr Snoswell felt it was acceptable to speak to [her] in this way. [Individual B] would not expect to ever hear a comment like this from a colleague in any context.'*

The panel found this allegation proven on the balance of probabilities.

c. Individual C via WhatsApp in or around November 2016, specifically by sending one or more messages commenting:

- i. "Think i just need to really get laid lol Tinder not doing me any favours" or using words to that effect**
- ii. "Wana get drunk with me and break some bed strings sometime" or using words to that effect**

Mr Snoswell admitted this allegation in his statement dated 10 April 2018, stating that *'I admit I sent these messages. They would have been commonplace messages as part of the friendship between us that was at times intimate... I accept that I misjudged this situation and I accept that my conduct was inappropriate.'*

Individual C stated in her written evidence that *'the messages that [she] received from Mr Snoswell made [her] feel very awkward.'*

The panel had regard to a screenshot of the messages which confirmed the statements had been sent by Mr Snoswell to Individual C.

The panel found this allegation proven on the balance of probabilities.

2. Your conduct as may be found proven at allegation 1 included:

- a. unwanted physical and/or sexual contact with one or more of your female colleagues**

Mr Snoswell denied this allegation.

The panel carefully considered the facts of each of allegations 1.a., 1.b., and 1.c. and noted that unwanted physical contact was only relevant to allegation 1.a.

The panel carefully considered the evidence of Individual A who confirmed that the action by Mr Snoswell was unwanted. The panel found Individual A to be a credible and reliable witness.

The panel found, in respect of allegation 1.a., this allegation proven.

b. sexual harassment of one or more of your female colleagues

Mr Snoswell admitted this allegation in respect of allegations 1.b. and 1.c.

In respect of his comments to Individual B, Mr Snoswell stated, *“This was commonplace for us at the time we were friends and part of a larger friendship group where sexualised joking was commonplace and accepted.”*

The panel noted that there was evidence of inappropriate sexual ‘banter’ in the school amongst the teachers, as identified by the independent investigator during their investigation on behalf of Fair Ways School.

However, even taking into account the culture which was present in the school at that time, the panel considered that Mr Snoswell crossed professional boundaries.

The panel accepted the evidence of Individual A that the sexual comments and actions made her feel very distressed and uncomfortable. The panel also had regard to the written evidence of Individuals B and C who both confirmed that the sexual comments made towards them were inappropriate and unwanted.

The panel found this allegation proven in respect of allegations 1.a., 1.b., and 1.c.

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

Mr Snoswell admitted this allegation in respect of allegations 1.b. and 1.c.

As with all findings of fact, the panel considered this question applying the balance of probabilities. The panel considered whether on the balance of probabilities reasonable persons would think the words and actions found proven could be sexual. The panel then considered whether, in all the circumstances of the conduct in the case, it was more likely than not that the teacher’s purpose of such words and actions was sexual.

The panel considered whether, even in the absence of any direct evidence, sexual motivation should be inferred from all the circumstances of the case. The panel had in mind the evidence of the teacher’s character and considered whether such evidence had

any bearing on the teacher's credibility or propensity to have carried out the alleged facts or to the circumstances in which the teacher found himself.

The panel carefully considered the evidence of Individuals A, B and C which all described content of a sexual nature.

The panel found that allegations 1.a., 1.b., and 1.c. were proven. The panel decided that more likely than not, Mr Snoswell's behaviour was sexually motivated and therefore on the balance of probabilities, this was proven in relation to allegations 1.a, 1.b., and 1.c.

3. Whilst applying for the role of Head of Physics at the Wellington Academy in Wiltshire you provided false and/or misleading information, including by:

- a. informing the Director of Science on or around 22 March 2018 that you had been 'fired' from the Fair Ways School due to a single incident and/or in respect of your behaviour towards a single individual whereas in fact your dismissal had been in relation to multiple incidents and/or in relation to multiple individuals**
- b. informing the Director of Science on or around 22 March 2018 that you had not been subject to disciplinary proceedings at the Fair Ways School, when in fact you had been**

Mr Snoswell denied this allegation in his response to the notice of referral, dated 23 March 2019.

Mr Snoswell stated that *'I explained on the phone that I had been suspended and under investigation for all of the points... and that I felt it was becoming clear that I was not receiving a fair and unbiased investigation so the result would be my dismissal..* He went on to state that, *'I held nothing back, told no lies.'*

The panel heard oral evidence from the Director of Science at Wellington Academy in Wiltshire who stated that, during the telephone call, Mr Snoswell stated that the incident was a single allegation of one inappropriate comment to one colleague during a night out with work colleagues. The Director of Science went on to state that in answer to the specific question as to whether there had been a disciplinary process instigated against Mr Snoswell, he answered, *"no"*.

The panel preferred the evidence of the Director of Science at Wellington Academy in Wiltshire who was credible, clear and unequivocal in her evidence.

The panel found this allegation proven on the balance of probabilities.

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

Mr Snoswell denied this allegation.

The panel applied the test of dishonesty as set out by the Supreme Court in the case of *Ivey v Genting Casinos (UK) Ltd*. First, the panel ascertained the actual state of Mr Snoswell's knowledge or belief as to the facts. The panel found that at the time of this telephone call, Mr Snoswell was fully aware that Fair Ways School was investigating more than one incident, involving more than one colleague, and one more than one date. The panel noted that Mr Snoswell received a letter dated 7 March 2018 and headed 'Disciplinary Hearing Outcome', and the telephone conversation with the Director of Science took place on 22 March 2018.

The panel went on to consider whether his conduct was honest or dishonest by applying the objective standards of ordinary decent people. In applying the test, the panel had in mind that dishonesty is not the only explanation for such conduct and that there can be other explanations, such as mistake or carelessness.

The panel found that Mr Snoswell's actions in concealing the extent of the Fair Ways School's investigation was dishonest. The panel further found that in denying that he was subject to a disciplinary process, when he knew that he was, was dishonest.

The panel went on to consider whether Mr Snoswell's behaviour lacked integrity. The panel noted that in concealing the full nature of the allegations against him, and that he had been subject to a disciplinary process, Mr Snoswell acted with a lack of integrity in order to secure a new teaching position.

The panel found this allegation proven on the balance of probabilities.

5. Whilst employed as the Head of Physics at the Wellington Academy in Wiltshire, from April 2018 to July 2018, you made one or more inappropriate comments and/or actions, towards and/or in the presence of students, in the course of a lesson on or around 23 May 2018, in particular:

- a. stating Pupil J was "*assuming the position*" or using words to that effect when Pupil J was leant forward over a table**

Mr Snoswell denied this allegation.

The panel heard oral evidence from Pupil J.

The panel accepted the evidence of Pupil J that Mr Snoswell said, “assuming the position” which Pupil J characterised as making him feel shocked, as he ‘did not expect a teacher to talk about sexual instances.’

The panel found Pupil J to be mature, articulate, credible and reliable. This was supported by the evidence of the Director of Science, who provided a similar view of his character and probity.

The panel placed less weight on the evidence of Mr Snoswell, who stated that he had to speak to Pupil J because Pupil J was in his way as Mr Snoswell walked around the classroom. Mr Snoswell went on to state that ‘[Pupil J] became very embarrassed by this, immediately told all of his friends who became hostile towards me and at this point it became clear I had made enemies. I believe this explains how this group have now made false allegations against me to protect their friend against a new teacher.’

The panel did not find that Mr Snoswell’s explanation was credible. In particular, the panel noted that the incidents set out in allegation 5 are alleged to have taken place during one lesson. This lesson took place immediately prior to a public examination, and the pupils provided their evidence to the school later that day. There was therefore limited time for such collusion to take place.

Additionally, the panel heard evidence from the Director of Science, and Pupils J and H that, aside from these comments, Mr Snoswell was liked and was an ‘energetic and entertaining’ teacher.

The panel found this allegation proven on the balance of probabilities.

b. thrusting to simulate sexual activity with Pupil J

Mr Snoswell denied this allegation.

The panel heard oral evidence from Pupil H that Mr Snoswell stood behind Pupil J and made thrusting motions. Pupil H was clear in her recollection of this incident.

The panel further heard from Pupil J, who confirmed he had not seen Mr Snoswell behind him, but had been informed of the incident afterwards.

The panel preferred the evidence of Pupil H. The panel found this allegation proven on the balance of probabilities.

c. stating “I like my coffee like I like my men” or words to that effect

d. implying that you had a sexual preference for “black” men

Mr Snoswell admitted these allegations. The panel noted that there was one instance in which Mr Snoswell made the comment, and this was directly linked to the implication that he had a sexual preference for black men.

The panel had regard to the evidence of Mr Snoswell that he 'made a similar comment to this but not the one stated... The group of friends had become harsh and hostile and started accusing me of being harsh and inappropriate to the student in question and I snapped back with a comment that I regret and would not say again, which I wholly apologise for.'

The panel found this allegation proven on the balance of probabilities.

e. encouraging and/or suggesting that Pupil K should engage in sexual activity with another pupil

Mr Snoswell denied this allegation and stated that 'I made the complete opposite comments to those I have been accused of'.

The panel had regard to the evidence of Pupil H who was clear in her recollection that Mr Snoswell said, "why don't you just shag him and see what happens" or words to that effect.

The panel further noted the evidence of Pupil J who stated that Mr Snoswell said words to the effect of, "go on and do it."

The panel found the oral evidence of Pupil H and Pupil J to be consistent with their written accounts and credible.

The panel further had regard to an email from Pupil K to the school in which she confirmed that Mr Snoswell had said, "why don't you just shag him and find out" during a conversation about another pupil.

The panel found this allegation proven on the balance of probabilities.

f. discussing the loss of virginity and/or referring to losing virginity by placing your finger in your mouth to make a popping sound

Mr Snoswell denied this allegation stating that he 'absolutely did not use sounds or actions in a sexual way.'

The panel had regard to the evidence of Pupil J who stated that, "Mr Snoswell made a tongue popping noise with his finger in his mouth" in the context of someone losing their virginity.

The panel did not accept Mr Snoswell's assertion that this was done in the context of teaching a physics concept.

The panel preferred the evidence of Pupil J and found this allegation proven on the balance of probabilities.

g. commenting on Pupil J and Pupil H's relationship

Mr Snoswell denied this allegation.

Pupil J gave evidence that during the lesson, Pupil H was sitting on Pupil J's lap. Pupil J stated that Mr Snoswell went on to say that people may perceive that Pupil J and Pupil H were in a relationship.

This was further confirmed by the evidence of Pupil H who stated that Mr Snoswell said, "If I didn't know better, I thought you were a couple or in a relationship".

The panel found this allegation proven on the balance of probabilities.

h. using the phrase "up the bum" or words to that effect

Mr Snoswell denied this allegation.

The panel heard oral evidence from Pupil H who stated that Mr Snoswell made the comment, "would you take it up the bum" to her whilst she was sitting and leaning against Pupil J.

The panel preferred the evidence of Pupil H to that of Mr Snoswell.

The panel found this allegation proven on the balance of probabilities.

i. hugging one or more pupils

Mr Snoswell admitted he gave a pupil a 'side hug' but denied it was inappropriate.

The panel had regard to the evidence of Pupil H who stated that she saw Mr Snoswell approach Pupil O from behind and give her a hug, as Pupil O was upset. The action was demonstrated by Pupil H and did not resemble a 'side hug'. The panel noted Pupil H was uncomfortable with the incident as in her experience, teachers would not hug pupils in that way.

The panel found that the incident described by Pupil H was inappropriate.

The panel found this allegation proven on the balance of probabilities.

6. Your behaviour as may be found proven at allegation 5 above was conduct of a sexual nature and/or was sexually motivated

The panel carefully considered the words and actions found proven at allegation 5. The panel noted that in respect of allegations 5.a., 5.b., 5.c., 5.d., 5.e., 5.f., 5.g., and 5.h., these allegations were inherently of a sexual nature.

The panel did not find that allegation 5.i. was sexual in nature.

In respect of sexual motivation, the Panel considered this question applying the balance of probabilities. The panel considered whether on the balance of probabilities reasonable persons would think the words and actions found proven could be sexual. The panel then considered whether, in all the circumstances of the conduct in the case, it was more likely than not that the teacher's purpose of such words and actions were sexual.

The panel considered whether, even in the absence of any direct evidence, sexual motivation should be inferred from all the circumstances of the case. The panel had in mind the evidence of the teacher's character and considered whether such evidence had any bearing on the teacher's credibility or propensity to have carried out the alleged facts or to the circumstances in which the teacher found himself.

In making its decision, the panel found that in respect of allegations 5.a., 5.b., 5.c., 5.d., 5.e., 5.f., 5.g., and 5.h., the words and actions were of a sexual nature and were totally out of context in a physics revision class, immediately prior to a public examination. However, whilst wholly inappropriate and misguided, the panel did not find that Mr Snoswell's actions were sexually motivated.

The panel found the following allegations not proven:

5. Whilst employed as the Head of Physics at the Wellington Academy in Wiltshire, from April 2018 to July 2018, you made one or more inappropriate comments and/or actions, towards and/or in the presence of students, in the course of a lesson on or around 23 May 2018, in particular:

j. asking Pupil N to the school prom and/or offering to be her "*prom date*"

k. suggesting that you would treat Pupil N "*right*" by buying her flowers

Mr Snoswell denied these allegations.

The panel accepted the evidence of Pupil H that she had a conversation with Pupil N, in which Pupil N relayed these comments. However, the panel noted that it could not test

the evidence of Pupil N, nor did it have compelling documentary evidence in relation to these allegations.

The panel therefore found these allegations not proven on the balance of probabilities.

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

Having found a number of the allegations proven, the panel went on to consider whether the facts of those proven 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 Snoswell, in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Mr Snoswell 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 was satisfied that the conduct of Mr Snoswell amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Snoswell’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found that the offences of serious dishonesty and sexual activity were relevant. In one school, Mr Snoswell exhibited behaviour on more than one occasion that did not recognise professional boundaries with colleagues. In the second school, Mr

Snoswell sought to conceal his previous disciplinary action in order to obtain a new teaching position. The panel also found proven a number of highly inappropriate comments and gestures of a sexual nature made towards pupils during a physics revision class.

The Advice indicates that where behaviours associated with such offences exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that allegations 1.a. and 1.b. took place outside of the education setting and occurred on a work night out with colleagues. The panel took into account that the view expressed within the disciplinary investigation that the work night out was an extension of the school day. The panel went on to place weight on the evidence of Individual A that, following the night out, she would rather leave the school than continue working with Mr Snoswell. Individuals B and C also expressed significant concern about the comments Mr Snoswell made to them and it was clear that he had negatively impacted their work and wellbeing.

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

The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

Having found the facts of particulars 1, 2, 3, 4, 5.a. to 5.i. and 6. proven, the panel further found that Mr Snoswell's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely, the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. The panel also considered whether there was an interest of retaining the teacher in the profession.

The panel's findings against Mr Snoswell involved sexually motivated inappropriate comments and conduct towards three colleagues, dishonesty and lack of integrity, and a series of inappropriate comments and gestures made towards pupils.

There was a strong public interest consideration in respect of the protection of pupils, given the wholly inappropriate comments and gestures made to pupils whilst he was leading a physics revision class.

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

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Snoswell.

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 Snoswell. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk
- a deep-seated attitude that leads to harmful behaviour

- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up
- sexual misconduct, eg 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

Even though some of the behaviour found proven 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 not appropriate or proportionate.

The panel accepted that the teacher had a previously good record.

There was no evidence to suggest that the teacher was acting under duress, and in fact the panel found the teacher's actions to be deliberate. [REDACTED]

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 concluded that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in the case would unacceptably compromise the public interest considerations present, despite the severity of the consequences for the teacher of prohibition.

The panel decided that prohibition was both proportionate and appropriate. The panel was of the view that the public interest considerations outweighed the interests of Mr Snoswell, taking into account that the incidents were serious and occurred on multiple occasions, and in two different schools. 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 to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances in any given case that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. These behaviours include serious dishonesty and serious sexual misconduct.

Whilst Mr Snoswell apologised for those words and actions that he admitted from the outset of this hearing, the panel found that Mr Snoswell demonstrated extremely limited insight into the impact of his actions on his colleagues and on his pupils. This was despite having a number of opportunities in the previous three years to demonstrate insight into his behaviour and show remorse for the impact of his actions on others.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provision for a review period.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

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

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

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

In particular, the panel has found that Mr Snoswell 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 panel was also satisfied that the conduct of Mr Snoswell, “amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.”

The panel also considered whether Mr Snoswell’s conduct displayed behaviours associated with any of the offences listed on pages 8 and 9 of the Advice.

The panel found, “that the offences of serious dishonesty and sexual activity were relevant. In one school, Mr Snoswell exhibited behaviour on more than one occasion that did not recognise professional boundaries with colleagues. In the second school, Mr Snoswell sought to conceal his previous disciplinary action in order to obtain a new teaching position. The panel also found proven a number of highly inappropriate comments and gestures of a sexual nature made towards pupils during a physics lesson”.

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

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 Snoswell 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 that Mr Snoswell had, “a series of inappropriate comments and gestures made towards pupils. There was a strong public interest consideration in respect of the protection of pupils, given the wholly inappropriate comments and gestures made to pupils whilst he was leading a physics revision class.”

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, “Whilst Mr Snoswell apologised for those words and actions that he admitted from the outset of this hearing, the panel found that Mr Snoswell demonstrated extremely limited insight into the impact of his actions on his colleagues and on his pupils. This was despite having a number of opportunities in the previous three years to demonstrate insight into his behaviour and show remorse for the impact of his actions on others.” 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 well-being 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, “The findings of misconduct were serious and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

I am particularly mindful of the finding of serious dishonesty and serious sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Snoswell himself. The panel say that it, [REDACTED].

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

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has also said, “the incidents were serious and occurred on multiple occasions, and in two different schools.”

I have also placed considerable weight on the finding of the panel that, “Individual A that, following the night out, she would rather leave the school than continue working with Mr Snoswell. Individuals B and C also expressed significant concern about the comments Mr

Snoswell made to them and it was clear that he had negatively impacted their work and wellbeing.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Snoswell has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full remorse or full insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

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

I have considered the panel’s comments on insight and remorse when considering a review, the panel found, “that Mr Snoswell demonstrated extremely limited insight into the impact of his actions on his colleagues and on his pupils.” And go on to say this was “despite having a number of opportunities in the previous three years to demonstrate insight into his behaviour and show remorse for the impact of his actions on others.”

I have considered whether allowing for no review period 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 period is proportionate and necessary to achieve the aim of maintaining public confidence in the profession. These elements are the serious misconduct found, the serious dishonesty found and the lack of either full insight or remorse.

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

This means that Mr Luke Snoswell 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 proven against him, I have decided that Mr Luke Snoswell 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 Luke Snoswell has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'Alan Meyrick', followed by a vertical line.

Decision maker: Alan Meyrick

Date: 4 October 2019

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