



Teaching
Regulation
Agency

Mr Nicholas Gascoine: Professional conduct panel outcome

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

June 2021

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

Teacher:	Mr Nicholas Gascoine
Teacher ref number:	1071290
Teacher date of birth:	27 December 1987
TRA reference:	18372
Date of determination:	22 June 2021
Former employer:	Holdbrook Primary School, Hertfordshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened by remote video link on 21 and 22 June 2021, to consider the case of Mr Nicholas Gascoine.

The panel members were Dr Angela Brown (lay panellist – in the chair), Mr Gamel Byles (teacher panellist) and Mr Martyn Stephens (lay panellist).

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

The presenting officer for the TRA was Mr Michael O’Donohoe of Browne Jacobson solicitors.

Mr Gascoine was present and was represented by Ms Sue Sleeman of Counsel.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 30 March 2021.

It was alleged that Mr Gascoine was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at Holdbrook Primary School and Nursery (“the School”) between November 2016 and April 2019;

1. Between November 2018 and January 2019, he made inappropriate comments to and/or requests of one or more female pupils specifically by:
 - a. Asking Pupil B to try on a swimming costume in a cupboard;
 - i. Without a reasonable justification for doing so;
 - ii. Despite the fact that no swimming lesson was due to take place that day;
 - iii. And requested on one or more occasions that she do so without her tights and/or underwear on.
 - b. Asking Pupil C to try on a swimming costume in a cupboard;
 - i. Without a reasonable justification for doing so;
 - ii. Despite the fact that no swimming lesson was due to take place that day.
 - c. Asking Pupil E to try on a swimming costume in a cupboard;
 - i. Without reasonable justification for doing so;
 - ii. Despite the fact that no swimming lesson was due to take place that day.
2. His behaviour as may be found proven at 1 above;
 - a. Made one or more pupils feel uncomfortable and/or
 - b. Was sexually motivated.

Mr Gascoine admitted the facts of allegations 1a.ii, 1a.iii, 1b.ii, 1c.ii and 2a. Mr Gascoine denied allegations 1a.i, 1b.i, 1c.i and 2b. In relation to the admitted allegations, Mr Gascoine also admitted that those facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

At the outset of the hearing, the panel noted that the stem of allegation 1 stated “including by”. The panel considered whether it was necessary, in the interests of justice, to amend the allegation to replace “including” with “namely” or “specifically” or whether

the allegation had been sufficiently particularised so that Mr Gascoine was aware of the case against him. The panel noted it had the power to, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

The panel considered the representations by the presenting officer and by the teacher's representative, who did not object to the suggested amendment.

The panel decided to amend the stem of allegation 1 to state, "specifically by", as set out above. The panel considered that the amendment did not change the nature, scope or seriousness of the allegations and added clarity.

Summary of evidence

Documents

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

Section 1: Chronology – page 2

Section 2: Notice of proceedings, response and statement of agreed and disputed facts – pages 4 to 16

Section 3: Teaching Regulation Agency witness statements – pages 18 to 22

Section 4: Teaching Regulation Agency documents – pages 24 to 140

Section 5: Teacher documents – pages 142 to 165

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, a [REDACTED] at the School, called by the presenting officer.

Mr Gascoine also gave evidence.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Gascoine had been employed as a class teacher at the School from 1 November 2016, firstly on a part-time basis and then on a permanent basis since 1 April 2017. On 11 January 2019, Mr Gascoine approached the acting headteacher to explain that he had asked Pupil E to try on a swimming costume for size. Pupil E had told her parents on 11 January 2019 that Mr Gascoine had asked her and other pupils to try on a swimming costume. Pupil E's parents then spoke to the parents of the other pupils that Pupil E had named, who all confirmed that Mr Gascoine had asked them to try on a swimming costume. During the weekend commencing 12 January 2019, parents of pupils reported the incident to the Police and the Child Protection Services Team, alleging that Mr Gascoine had made inappropriate remarks to year 5 pupils during December 2018 and the week commencing 7 January 2019. Mr Gascoine was suspended from the School, pending an investigation.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proved, for these reasons:

1. Between November 2018 and January 2019, you made inappropriate comments to and/or requests of one or more female pupils specifically by:

a. Asking Pupil B to try on a swimming costume in a cupboard;

This allegation was admitted by Mr Gascoine and found proved. The panel noted that the 'cupboard' was in fact a walk-in cupboard, adjoined to an intervention room which was in turn adjoined to Mr Gascoine's classroom.

i. Without a reasonable justification for doing so;

Mr Gascoine stated that, around November 2018, a pupil in his class had forgotten her swimming costume and had worn a spare provided by the School, given to her by Witness A, which was see-through. This had allegedly been noted by other pupils in the class. He had subsequently spoken to the pupil about this which had seemingly caused her distress, but she had nevertheless wanted to continue to swim. Mr Gascoine further stated that he had not brought this to the attention of the teaching assistant present at the swimming lesson, the pupil's parents or other colleagues as he did not think this would be prudent and did not want to cause the pupil further distress. He had concluded that he, as class teacher, was in the best position to discreetly manage the situation.

In his oral and written evidence, Mr Gascoine stated that this incident had reminded him of an incident involving a former colleague, who had been accused of purposefully providing a pupil with an unsuitable swimming costume when a pupil had forgotten their swimming costume. This had caused Mr Gascoine concern.

With this background, Mr Gascoine explained that female pupils would forget the necessary resources for their swimming lessons more often than male pupils. He had asked Pupil B to try on the swimming costumes to ensure that these remained fit for purpose.

In contrast to this, the panel also heard evidence from Witness A, who did not recall female pupils forgetting the necessary resources for swimming more than males, was not aware of the incident as outlined by Mr Gascoine in November 2018 and did not recall providing that pupil in question with a spare swimming costume, although she would regularly hand out spare swimming costumes.

Witness A outlined the procedure at the School should a pupil forget their swimming costume. The School's admin staff would call the pupil's home and ask for a swimming costume to be brought into School in time for the swimming lesson on a Tuesday afternoon. If this was not possible, the School would then seek permission from the parent for the pupil to wear one of the School's spare swimming costumes. These swimming costumes were kept in Mr Gascoine's classroom and it was not known how the School had originally obtained these swimming costumes. This was corroborated by the evidence in the bundle as to the School's procedures for borrowing a spare swimming costume.

The panel also heard from Witness A as to how, if a pupil had forgotten their swimming costume and would be using a spare, she would hold one of the spare swimming costumes up to the pupil to check its size and hand this to the pupil to take with them to the swimming lesson, along with another spare should the swimming costume not fit. Witness A explained that another teacher at the School who also had taken swimming lessons would usually take the whole bag of spare swimming costumes to the swimming lesson as an alternative way of providing spare costumes.

The panel considered the available evidence. The panel noted that there was no evidence, besides Mr Gascoine's account, of the incident with an inappropriate costume in November 2018. A note of the account from Pupil B taken by the police stated that Pupil B had said she had been asked because a fellow student "had forgotten her costume several weeks before and she had tried the same suit on but said it didn't fit on a day they attend [sic] swimming". The teacher's representative suggested that Pupil B was in the same class as this other pupil and would have said at the time of the interview if she knew that no incident had occurred. However, the panel noted that it had not had chance to test the veracity of this statement and the note suggested that this was Pupil B's recollection of the explanation Mr Gascoine had given to the pupils for asking them to try on the swimming costume, rather than Pupil B recollecting the incident with the other pupil. In any event, the panel noted that this contradicted Mr Gascoine's statement that he had thrown the swimming costume in question away.

The panel did not consider Mr Gascoine's explanation as to the reasons why he asked the pupils to try on the swimming costumes to be credible. Mr Gascoine had initially

stated that the purpose of the 'exercise' was to see if the swimming costumes fitted correctly, but later stated that the purpose was to inspect the quality of the swimming costumes. The panel noted that Mr Gascoine stated that he did not know which swimming costume the pupils had tried on and did not keep a record of this. The panel considered that Mr Gascoine could have visually inspected the swimming costumes to check to see if they were threadbare or otherwise damaged.

The panel found that Mr Gascoine did not have a reasonable justification for asking Pupil B to try on a swimming costume in a cupboard, particularly given the contradictory evidence, the other options available to Mr Gascoine to check the suitability of the swimming costumes and the futility of the request in the circumstances meeting Mr Gascoine's stated aim of the exercise.

This allegation was therefore, found proved.

ii. Despite the fact that no swimming lesson was due to take place that day;

The allegation was admitted and was supported by evidence presented to the panel.

Mr Gascoine admitted that he had asked Pupil B to try on a swimming costume on a Friday. This was further supported by the accounts from the pupils. It was accepted that swimming lessons took place on a Tuesday afternoon.

The allegation was therefore, found proved.

iii. And requested on one or more occasions that she do so without her tights and/or underwear on.

The allegation was admitted and was supported by evidence presented to the panel. However, Mr Gascoine caveated his admission in his written evidence, stating that his discussion with Pupil B had been an open dialogue and he had asked her to try the swimming costume on "properly", leaving it to Pupil B's discretion.

In his oral evidence, Mr Gascoine admitted that he had asked Pupil B to try on the swimming costume "properly". This was further corroborated by the notes of the meetings with the pupils and parents of the pupils, the police report and notes from the LADO meeting, all of which were presented to the panel in evidence.

The panel noted that in an email from the Child Protection Services Team, a note was made of a call with Pupil B's mother, where Pupil B had recollected that she had been asked to try on the swimming costume and when she came out Mr Gascoine had asked her if she had tried the swimming costume on "properly". Pupil B had then outlined the clothing she had left on and Mr Gascoine had asked her to go back again and do it "properly". After again trying it on, Pupil B had told Mr Gascoine she had left her underwear on and Mr Gascoine had said this was not good enough and to try it on again

properly, at which point Pupil B then refused. The panel noted that this was hearsay evidence and it had not had the opportunity to test this evidence. The panel also noted that other notes of Pupil B's account available to it did not refer to Mr Gascoine asking Pupil B to try on the swimming costume specifically without her tights and/or underwear on. The panel considered that this note was not inconsistent with the other accounts of the events, but rather went into further detail.

However, the panel noted that Mr Gascoine had admitted the allegation in the statement of agreed and disputed facts and in his witness statement. The written evidence consistently referred to Pupil B being asked to try the swimming costume on again "properly" after she had told Mr Gascoine of the clothing she had left on when trying on the swimming costume. Mr Gascoine also stated in oral evidence that he accepted that the use of the word "properly" could imply to the pupil that he had requested her to try on the swimming costume without her tights and underwear on.

The allegation was therefore, found proved.

b. Asking Pupil C to try on a swimming costume in a cupboard;

i. Without a reasonable justification for doing so;

For the reasons outlined above, the panel did not consider Mr Gascoine to be credible in his evidence when outlining the alleged incident at the swimming lesson in November 2018 or in his reasoning for asking Pupil C to try on a swimming costume. In oral evidence, Witness A had outlined the procedure for providing pupils with a spare swimming costume.

For these reasons, and the alternative options available to Mr Gascoine to check the suitability of the spare swimming costumes, even if a suitability check had been his reasoning for making the request, the panel did not consider that Mr Gascoine had a reasonable justification for asking Pupil C to try on a swimming costume in a cupboard.

This allegation was therefore, found proved.

ii. Despite the fact that no swimming lesson was due to take place that day.

The allegation was admitted and was supported by evidence presented to the panel.

Mr Gascoine admitted that he had asked Pupil C to try on a swimming costume on a Friday. This was further supported by the accounts from the pupils. It was accepted that swimming lessons took place on a Tuesday afternoon.

The allegation was therefore, found proved.

c. Asking Pupil E to try on a swimming costume in a cupboard;

i. Without reasonable justification for doing so;

For the reasons outlined above, the panel did not consider Mr Gascoine to be credible in his evidence when outlining the alleged incident at the swimming lesson in November 2018 or in his reasoning for asking Pupil E to try on a swimming costume. In oral evidence, Witness A had outlined the procedure for providing pupils with a spare swimming costume.

The panel also noted that Mr Gascoine had requested that Pupil E try on a swimming costume in January 2019, some time after he had made the same request of Pupils B and C and after the alleged incident in November 2018 during a swimming lesson. If Mr Gascoine's aim of the request was to check the size of the swimming costume, this period of time had offered the opportunity for Mr Gascoine to reflect on his actions and consider whether he had achieved his aims following the request made of Pupils B and C.

For these reasons, and the alternative options available to Mr Gascoine to check the suitability of the spare swimming costumes, even if a suitability check had been his reasoning for making the request, the panel did not consider that Mr Gascoine had a reasonable justification for asking Pupil E to try on a swimming costume in a cupboard.

This allegation was therefore, found proved.

ii. Despite the fact that no swimming lesson was due to take place that day.

The allegation was admitted and was supported by evidence presented to the panel.

Mr Gascoine admitted that he had asked Pupil E to try on a swimming costume on a Friday. This was further supported by the accounts from the pupils. It was accepted that swimming lessons took place on a Tuesday afternoon.

The allegation was therefore, found proved.

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

a. Made one or more pupils feel uncomfortable and/or

The allegation was admitted and was supported by evidence presented to the panel. The panel heard from Mr Gascoine as to how he did not force the pupils to try on the swimming costumes, but rather it was a dialogue. Mr Gascoine also stated that the pupils had some concerns, with the main one being where they would try the swimming costume on.

The panel noted in the written evidence that the pupils had reported that they had felt very uncomfortable when asked to try on the swimming costumes. The panel also noted that the requests made by Mr Gascoine for Pupil B to try on the swimming costume “properly” had made her uncomfortable.

The allegation was therefore, found proved.

b. Was sexually motivated.

Having found allegation 1 proved, the panel went on to consider whether Mr Gascoine’s conduct was sexually motivated.

The panel accepted that the state of a person’s mind is not something that can be proved by direct observation, but by inference or deduction from the surrounding evidence.

Mr Gascoine denied this allegation.

The panel heard from Mr Gascoine that he had asked the pupils to try on the swimming costumes as a result of an incident in November 2018 with a pupil wearing an inappropriate costume which had caused her distress. For the reasons outlined above, the lack of corroborating evidence that the incident occurred and that the incident was only raised for the first time with the acting headteacher in January 2019, the panel was not satisfied that there had been an incident in November 2018.

The panel did not consider that Mr Gascoine had asked the pupils to try on the swimming costumes in the pursuit of a future relationship. However, the panel considered that he had done so for sexual gratification and as such the act was sexually motivated.

The panel acknowledged that Mr Gascoine was not present when the pupils were trying on the swimming costumes and that the pupils did not show Mr Gascoine the swimming costumes once tried on. However, the panel did not consider that there was any other reasonable or logical explanation for asking the pupils to try on the swimming costumes. The panel noted the inconsistencies in Mr Gascoine’s account, such as his reasoning for asking pupils to try on the swimming costumes and the number of months that had passed between the alleged incident at the swimming lesson whereby a pupil had worn an inappropriate swimming costume. The panel also noted that Mr Gascoine had made comments such as asking whether the police were coming to take him away in “handcuffs” when the incidents came to light and had said to two of the pupils present in the classroom when Pupil B was trying on the swimming costume that they were his “witnesses”. Mr Gascoine had stated in his oral evidence that these comments were made in a “jokey” manner. However, the panel considered that these comments were suggestive that Mr Gascoine was aware of the way in which his actions would be interpreted. His immediate appreciation of the seriousness of the matter could be interpreted by a reasonable person as being a reflection of his actual intentions at the time.

In his evidence to the investigation meeting held by the School, Mr Gascoine referred to the physical development of the pupils. He also referred to the physical development of the pupils in oral evidence. The panel found that Mr Gascoine had selected the pupils to try on the spare swimming costumes because of their physical appearance and the obvious inference from the circumstances was that Mr Gascoine was focused on their physical development at the time. Furthermore, when questioned by another pupil as to why Pupil C was in the cupboard, Mr Gascoine gave an alternative reason, stating that she had made a “mess” and was cleaning it up.

The panel found that Mr Gascoine had no reasonable justification for asking the pupils to try on the swimming costumes in the cupboard. The panel noted that Mr Gascoine had not made his concerns about the state of the swimming costumes known to others within the School, including Witness A who would often provide the spare swimming costumes to the pupils and with whom he had a good working relationship. The panel also noted that Mr Gascoine had not informed others of his requests, and that, if the justification had been to check the size and quality of the swimming costumes, the way in which the pupils were asked to try on the swimming costumes would not have achieved that aim. The requests were also made on separate occasions which would have allowed Mr Gascoine to reflect on the futility of his request to achieve his stated aim, which was not done, and Mr Gascoine had referred to the physical development of the pupils. The panel considered that there was no other possible explanation for Mr Gascoine’s actions other than sexual motivation.

The allegation was therefore, found proved.

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

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

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

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

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

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position

- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions

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

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

The panel was satisfied that the conduct of Mr Gascoine amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Mr Gascoine had asked Pupils B, C and E to try on a swimming costume in a cupboard without reasonable explanation. The panel considered that Mr Gascoine had made the pupils uncomfortable and as a result of his actions, they had since been questioned about the incidents. The panel had also found that the request, in the circumstances, was sexually motivated.

The panel also considered whether Mr Gascoine's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that none of these offences was relevant.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave. The panel noted that the pupils had been made to feel uncomfortable by Mr Gascoine's requests, there was no reasonable justification for his requests and that concerns as to Mr Gascoine's status as a teacher had been expressed by parents of the pupils.

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

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

Having found the facts of particulars 1 and 2 proved, the panel further found that Mr Gascoine'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 maintenance of public confidence in the profession and declaring and upholding proper standards of conduct. The panel also considered whether the interest of retaining the teacher in the profession was relevant in this case, but had limited evidence as to Mr Gascoine's abilities as a teacher.

In the light of the panel's findings against Mr Gascoine, which involved inappropriate requests of three pupils to try on a swimming costume without reasonable justification and such requests being sexually motivated, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of inappropriate requests made of his pupils.

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

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

Although no doubt had been cast on Mr Gascoine's abilities as a teacher, the panel had no evidence that there was a strong public interest consideration in retaining Mr Gascoine in the profession.

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 Gascoine.

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 Gascoine. 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;

abuse of position or trust;

sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

In relation to sexual misconduct, the panel found that Mr Gascoine's actions were sexually motivated and that the requests he had made of the pupils were only possible by his professional position and the trust that the pupils had placed in him as their teacher.

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.

The panel found that Mr Gascoine's actions were deliberate and that he was not acting under duress. Mr Gascoine had asked the pupils to try on the swimming costume over lunchtime and at a time when no other adults were present.

Mr Gascoine did have a previously good history.

The panel acknowledged that there was no criticism of Mr Gascoine's abilities as a teacher, but noted that no references were provided from any colleagues that could attest to his abilities as a teacher. Witness A, in oral evidence, spoke positively of Mr Gascoine's abilities as a teacher, stating that he had good class behaviour, was a pleasure to work with and was good with children.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Gascoine 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 Gascoine. The finding of sexual motivation was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these was serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr Gascoine was responsible for asking three pupils to try on a swimming costume in a cupboard and that such behaviour was sexually motivated. Although the panel found that the pupils had been made to feel uncomfortable and that the pupils would likely remember this incident, the panel did not consider that the pupils had been harmed by the incident. Nevertheless, this was a serious finding, and the pupils had acquiesced to the request to try on the swimming costumes given Mr Gascoine's position of trust.

The panel noted that Mr Gascoine had reflected on his behaviour and had shown a level of remorse. In his written evidence, Mr Gascoine outlined his deep regret at the circumstances and the act of asking the pupils to try on the swimming costumes. However, the panel found that Mr Gascoine's actions went further than an inappropriate request and were sexually motivated. Mr Gascoine had reflected on his behaviour since the investigation, but had not reflected on his behaviour in the context of his actions being sexually motivated. Furthermore, Mr Gascoine offered no mitigation to satisfy the panel that his actions would not be repeated. The panel had ongoing concerns as to the continuing risk Mr Gascoine poses to children, because his actions occurred on more than one occasion over a period of time.

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 with no provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

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

the profession into disrepute. Mr Nicholas Gascoine should be the subject of a prohibition order, with no provision for a review period.

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

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

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

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

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

The panel was also "satisfied that the conduct of Mr Gascoine amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

The findings of misconduct are particularly serious as they include a finding of 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 Gascoine, 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, "Mr Gascoine had asked Pupils B, C and E to try on a swimming costume in a cupboard without reasonable explanation. The panel considered that Mr Gascoine had made the pupils uncomfortable and as a result of his actions, they had since been questioned about the incidents. The panel had also found that the

request, in the circumstances, was sexually motivated.” 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, “The panel noted that Mr Gascoine had reflected on his behaviour and had shown a level of remorse. In his written evidence, Mr Gascoine outlined his deep regret at the circumstances and the act of asking the pupils to try on the swimming costumes. However, the panel found that Mr Gascoine’s actions went further than an inappropriate request and were sexually motivated. Mr Gascoine had reflected on his behaviour since the investigation, but had not reflected on his behaviour in the context of his actions being sexually motivated. Furthermore, Mr Gascoine offered no mitigation to satisfy the panel that his actions would not be repeated. The panel had ongoing concerns as to the continuing risk Mr Gascoine poses to children, because his actions occurred on more than one occasion over a period of time.” In my judgement, the lack of full 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 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 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 Gascoine himself. The panel comment “there was no criticism of Mr Gascoine’s abilities as a teacher, but noted that no references were provided from any colleagues that could attest to his abilities as a teacher. Witness A, in oral evidence, spoke positively of Mr Gascoine’s abilities as a teacher, stating that he had good class behaviour, was a pleasure to work with and was good with children.”

A prohibition order would prevent Mr Gascoine 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, "this was a serious finding, and the pupils had acquiesced to the request to try on the swimming costumes given Mr Gascoine's position of trust."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Gascoine 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 "Mr Gascoine had reflected on his behaviour since the investigation, but had not reflected on his behaviour in the context of his actions being sexually motivated. Furthermore, Mr Gascoine offered no mitigation to satisfy the panel that his actions would not be repeated. The panel had ongoing concerns as to the continuing risk Mr Gascoine poses to children, because his actions occurred on more than one occasion over a period of time."

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 is necessary are the sexual misconduct found, the lack of full remorse or full insight and the time period over which the behaviour had taken place.

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 Nicholas Gascoine 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 Nicholas Gascoine 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 Nicholas Gascoine 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: 24 June 2021

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