



Teaching
Regulation
Agency

Mr Nick Lucas: Professional conduct panel outcome

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

November 2019

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

Teacher:	Mr Nick Lucas
Teacher ref number:	0261335
Teacher date of birth:	10 October 1971
TRA reference:	17410
Date of determination:	20 November 2019
Former employer:	Denewood and Unity Academies, part of the Radleigh Learning Trust (“the School”), Nottingham

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 18 November 2019 to 20 November 2019 at Double Tree by Hilton Hotel, Paradise Way, Walsgrave Triangle, Coventry, Warwickshire, CV2 2ST, to consider the case of Mr Nick Lucas.

The panel members were Mr Mike Carter (teacher panellist – in the chair), Mrs Alison Walsh (teacher panellist) and Ms Nicole Jackson (lay panellist).

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

The presenting officer for the TRA was Mr Phillip Dayle of No.5 Chambers, instructed by DAC Beachcroft LLP.

Mr Lucas was not present and was not represented.

The hearing took place in public, save for a part of the hearing which was held in private 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 Lucas was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. On various dates, he failed to maintain high standards of behaviour in that he
 - a) Intimidated and/or bullied Witness A and other members of staff,
 - b) Verbally abused Witness A and other members of staff,
 - c) Made references regarding Witness A's personal life to her and in the presence of other members of staff,
 - d) Used derogatory language to describe Witness A's appearance and used words to the effect of "venereal",
 - e) Put undue pressure on Witness C to return to work early following an operation,
 - f) Made homophobic references to Individual A, describing him as "gay" or words to this effect,
 - g) Swore in front of pupils,
2. On various dates, you failed to have regard to the need to safeguard pupils' well-being in that you
 - a) Pulled Pupil A by his legs and held him upside down in a room on your own, contrary to the Academy's policy and training, causing his head to hit the floor, on or about 25 April 2017,
 - b) Picked Pupil A up and pulled him around like a rag doll,
 - c) Held Pupil B against the wall by the throat,
 - d) Called Pupil C a "little shit" or words to this effect.
3. On various dates, you failed to have proper and professional regard for the ethos, policies, and practices of the Academy in that you
 - a) Failed to complete incident report forms for incidents involving pupils in which you were involved,
 - b) Failed to inform Pupil A's parents of the incident in April 2017,
 - c) Failed to and/or refused to attend Restrictive Physical Intervention training agreed for Key Stage 2 staff following the incident with Pupil A.

Mr Lucas acknowledged that he did swear in front of a pupil in respect of allegation 1g and admitted that he removed Pupil A from under a table by pulling his ankles in respect of allegation 2a. Whilst in response to the Notice of Proceedings, Mr Lucas admitted that some of the facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute. Mr Lucas did not specify which of the facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary Applications

The panel considered the following preliminary applications.

Proceeding in absence

The panel considered an application from the Presenting Officer to proceed in the absence of Mr Lucas.

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

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

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

The panel understood that its discretion to commence a hearing in the absence of the teacher had to be exercised with the utmost care and caution, and that its discretion was 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 has taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The panel was satisfied that Mr Lucas was aware of the proceedings as the teacher had responded to the Notice of Proceedings. The panel had sight of an email at page 14 of the bundle from Mr Lucas' representative which confirmed that Mr Lucas was agreeable to the hearing proceeding on 18th November 2019 and to waive the 8 week notice. The panel also had sight of email correspondence between Mr Lucas' representative and DAC Beachcroft LLP at pages 326 to 329 of the bundle which confirmed that Mr Lucas would not be in attendance at the hearing, that Mr Lucas waived his right to attend the hearing, and was content with the hearing proceeding in his absence. Mr Lucas considered attendance at the hearing

would exacerbate his mental health problems. No acceptance was made by Mr Lucas or his representative in relation to the offer of an online video to facilitate Mr Lucas being present for the hearing. The panel considered that Mr Lucas had clearly communicated his wish for the proceedings to proceed in his absence and had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

The panel had regard to the requirement that it was 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 Mr Lucas' attendance at the hearing. The panel noted that the hearing had been adjourned from a previous date when Mr Lucas had not attended and had been adjourned in order for him to attend a future hearing.

The panel considered 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 had the benefit of written representations made by the teacher and was able to ascertain the lines of defence. The panel had the teacher's evidence addressing mitigation and was able to take this into account at the relevant stage. The panel had noted that all witnesses relied upon were to be called to give evidence and the panel could test that evidence in questioning those witnesses, considering such points as were favourable to the teacher, as reasonably available on the evidence. The panel had not identified any significant gaps in the documentary evidence. Should such gaps had arisen during the course of the hearing, the panel could take such gaps into consideration in considering whether the hearing should be adjourned for such documents to become available. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

The panel has had regard to the seriousness of this case. The panel was aware of the potential consequences for the teacher of waiving his right to appear and has accepted that fairness to the teacher is of prime importance. The panel recognised that the measures referred to above would address that unfairness insofar as is possible. The panel took account of the inconvenience an adjournment would cause to the witnesses. Moreover on balance, these were serious allegations so therefore it was in the public interest for this hearing to proceed.

Excluding the public

The panel considered whether to exercise its discretion under paragraph 11 of the Regulations and paragraph 4.57 of the Procedures to exclude the public from all or part of the hearing.

The panel has taken into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. The panel had noted that there were concerns about confidential matters relating to the teacher's health being placed in the public domain. The panel had therefore, considered whether there were any steps short of excluding the public that would serve the purpose of protecting the confidentiality of matters relating to the teacher's health. It decided that there were not.

The panel therefore considered that such parts of the hearing should be held in private. It decided that the public interest required that the hearing should be public, but decided it would hear certain parts relating to confidential medical information in private.

Additional documents

Under paragraph 4.18 of the Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case. Two documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel used caution in exercising this discretion given that it has determined to proceed with this hearing in the absence of the teacher.

The panel was satisfied that the documents were relevant to the case as one document confirmed Mr Lucas' absence from the hearing by his representative and the second document was the previous panel's decision to adjourn the hearing to allow Mr Lucas a further opportunity to attend or to ensure that Mr Lucas was satisfied that his full case, including any mitigation had been placed before the panel, whether or not represented.

The panel considered whether Mr Lucas had received the two documents and had sufficient opportunities to make representations about the documents. The panel was satisfied that this consideration had been fulfilled as the first document was email correspondence from Mr Lucas' representative confirming his non-attendance at the hearing. The panel was also satisfied that the second document which detailed the decision to adjourn the first hearing would have been provided to Mr Lucas at the time.

By reason of the above, the panel has decided to admit the documents, and these should be paginated as follows:

- Email correspondence to confirm Mr Lucas' absence at hearing, pages 326 to 329.
- Previous decision not to proceed in absence, pages 330 to 332.

Amendment to the allegations

Upon the panel seeking clarification of the key to the individuals listed on page 2 of the bundle, an application was made by the presenting officer to amend the Notice of Proceedings by amending allegations 1e, 1f and 2b. The presenting officer requested that the reference to Witness C be amended to Witness B in allegation 1e. The presenting officer also requested that the reference to individual A in allegation 1f be amended to Witness C. It was further requested that reference to Pupil A in allegation 2b be amended to Pupil B.

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

Before making an amendment, the panel was required to consider any representations. The presenting officer made the application on the ground that the amendments were typographical errors only that did not change the nature, scope or seriousness of the allegations.

The panel determined that the amendments proposed to allegations 1e and 1f were corrections of typographical errors and did not change the nature, scope or seriousness of the allegations. There was no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore no unfairness or prejudice caused to the teacher.

However, the panel was concerned that the amendment proposed to allegation 2b altered the scope of the allegation. The amendment would change the factual basis of the allegation as the Pupil's gender would have changed, and the teacher may have presented his case differently had the amendment been made at an earlier stage. The panel did not consider that it would be in the interests of justice to amend the allegation. The presenting officer had ample opportunity to formulate the allegations in advance of the hearing and to amend the allegation at this stage would cause unfairness to the teacher.

D. Summary of evidence

Documents

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

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

Section 2: Notice of Proceedings and Response – pages 3 to 17

Section 3: Teaching Regulation Agency witness statements – pages 18 to 118

Section 4: Teaching Regulation Agency documents – pages 119 to 285

Section 5: Teacher witness statements – pages 286 to 299

Section 6: Teacher documents – pages 300 to 325

In addition, the panel agreed to accept the following:

Email correspondence to confirm Mr Lucas' absence at hearing, pages 326 to 329.

Previous decision not to proceed in absence, pages 330 to 332.

The panel members confirmed that they had read all of the documents in advance of the meeting.

Witnesses

The panel heard oral evidence from a colleague identified as Witness A, a colleague identified as Witness B, a colleague identified as Witness C.

All of the above witnesses were called on behalf of the TRA.

E. Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

The panel confirmed that it had read all of the documents provided in the bundle in advance of the hearing.

Mr Lucas had been employed at the School, since the mid 2000s. Mr Lucas' latest role at the School was Phase Leader for Key Stage 2 since February 2015.

Around February 2017, Witness A became increasingly offended by Mr Lucas' alleged verbally abusive behaviour towards her at the School.

Following on from a formal grievance submitted by Witness A on 5 June 2017, Mr Lucas was suspended from the School. As part of the disciplinary investigation, the additional allegations, involving those relating to other members of staff, including, Witness B and Witness C and Pupils A, B and C were disclosed. Mr Lucas was subsequently dismissed from the School on 17 May 2018. Mr Lucas appealed the School's decision and an appeal meeting took place on 4 July 2018. On 9 July 2018, the School upheld its decision to dismiss Mr Lucas.

Findings of fact

The findings of fact were as follows:

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

1. On various dates, he failed to maintain high standards of behaviour in that he

a) Intimidated and/or bullied Witness A and other members of staff

The panel assessed all of the evidence before it. The panel took account of Mr Lucas' denial of this allegation within his witness statement and the difficulties Mr Lucas was facing with his health, including the medical evidence and the side effects from his medication. The panel reviewed letters from medical experts, including the letter dated 21 March 2017 [redacted].

The panel's review, also included a letter dated 23 March 2017 where [redacted]. The panel went on to examine his medical records and further letters from medical experts. The panel was mindful that 4 of the medical letters post-dated the incident.

The panel reviewed corroborating evidence from Teachers 1, 2 and 3 in respect of this allegation.

The panel heard evidence from Witness A where she referred to an incident when she was shouted at by Mr Lucas to take her scarf off. Witness A described the way in which Mr Lucas shouted at her using a raised voice to "take her fucking scarf off". Witness A informed the panel that there were other female teachers with scarfs on and Mr Lucas did not speak to them in the same way.

Witness A also referred to a teacher who was previously employed by the School. Witness A said that she had "seen the teacher crying because she was afraid that she was going to lose her job." Witness A stated that "Mr Lucas had connections with the senior management of the School" and there was a "sense of fear that you could lose your job". Witness A went on to say that "everyone was scared".

The panel also heard evidence from Witness C when he referred to an incident where he was "reduced to tears" because of Mr Lucas' "constant bullying".

Witness C referred to previous employees who had been poorly treated by Mr Lucas. Witness C confirmed that a member of staff had resigned because Mr Lucas had told Witness C that he would "make her life hell."

Witness B confirmed that Mr Lucas' behaviour had eventually become unbearable for Witness A and that Witness B approached Witness A to advise her that she had to do something about it. Witness B confirmed that she had raised the issue of bullying by Mr Lucas towards Witness A with Individual A.

Witness B also stated that Mr Lucas had made her and another member of staff jump because he shouted so loud at Witness A. The other member of staff explained at page

138 of the bundle that “it wasn’t just the level of shouting, it was snarling, vicious and nasty.”

The panel was of the view that Mr Lucas intimidated and/or bullied Witness A and other members of staff.

The panel found allegation 1a proved.

1. On various dates, he failed to maintain high standards of behaviour in that he

b) Verbally abused Witness A and other members of staff

The panel assessed all of the evidence before it. The panel took account of Mr Lucas’ denial of this allegation 1b within his witness statement. The panel noted Mr Lucas’ admission to losing his temper with Witness A and admission to swearing at Witness A in May 2017.

The panel considered Mr Lucas’ attempt to show remorse by going to see Individual A to discuss his actions and consequences. The panel also considered the mediation attempt to resolve the issues between Witness A and Mr Lucas.

The panel took into account the written evidence from Witness A on page 101 of the bundle. Witness A explained that Mr Lucas approached her and said “come here and do this” to which Witness A responded “just a minute.” Mr Lucas shouted back “don’t fucking talk back and do what I am asking you to do”.

Witness C’s written evidence corroborates Witness A’s versions of events as he witnessed Mr Lucas being “aggressive” towards Witness A when she had not prioritised the job for Mr Lucas.

The panel took into account the email on page 80 of the bundle, from Witness C to Individual A, to make Individual A aware of Mr Lucas’ behaviour towards Witness A and Witness C. The wording states “This morning Mr Lucas was far too aggressive to Witness A over a job being incomplete. After school Mr Lucas was aggressive to myself over a matter which could have been discussed much more sensibly”.

The panel heard evidence from Witness C that whilst teaching the children, Mr Lucas shouted at him in front of the pupils and this was very unprofessional. Witness C made reference to Mr Lucas’ behaviour towards Key Stage 2 staff and that Mr Lucas would go out of his way to make people feel uncomfortable. Witness C informed the panel that staff would come to him to tell him about Mr Lucas “biting their heads off”.

Witness B explained that Mr Lucas had tried to shout at her on one occasion in front of children. Witness B stated that she “thrashed it out” with Mr Lucas the next day and was able to stand up to Mr Lucas.

The panel was able to test the evidence from the witnesses and the panel found that the witnesses' accounts of events were consistent and credible. The panel also took into consideration Mr Lucas' own admission that he lost his temper and swore at Witness A.

The panel found allegation 1b proved.

1. On various dates, he failed to maintain high standards of behaviour in that he

c) Made references regarding Witness A's personal life to her and in the presence of other members of staff,

The panel assessed all of the evidence before it. The panel took account of Mr Lucas' response in relation to this allegation. Mr Lucas did acknowledge that comments were made by him about Witness A's personal life. The panel noted Mr Lucas' alleged reasons for doing so and that Mr Lucas believed his comments had been taken out of context.

The panel considered the written evidence of Witness A. Witness A stated that Mr Lucas would say to staff "oh do you know what Witness A was doing this weekend... sleeping with African men".

Witness A's evidence was tested at the hearing. Witness A stated that Mr Lucas would make comments about a "guy I was getting to know". Witness A stated that she would give Mr Lucas a certain look to say that it was inappropriate to be discussing personal life in front of the pupils.

Witness C stated that Mr Lucas would make reference to Witness A being off to see other men. Witness C added that Mr Lucas would repeatedly say Witness A was "seeing several African men".

The panel tested Witness C's evidence at the hearing. Witness C explained that Mr Lucas would say that Witness A is "having an affair with an African man, and he would always specify African."

The panel was able to test the evidence from the witnesses and the panel found that the witnesses' accounts of events were consistent and credible. The panel also took into consideration Mr Lucas' acceptance of making comments about Witness A's personal life.

The panel found allegation 1c proved.

1. On various dates, he failed to maintain high standards of behaviour in that he

d) Used derogatory language to describe Witness A's appearance and used words to the effect of "venereal",

The panel assessed all of the evidence before it. The panel took into account Mr Lucas' response in relation to this allegation. Mr Lucas denied using derogatory language to describe Witness A's appearance but did acknowledge that he called Witness A "venereal" as a "crass play on words." The panel took into account Mr Lucas' statement that that he deeply regretted the comment and did try to apologise on many occasions.

The panel considered the evidence from Witness A. Witness A stated that "in a class full of pupils, Mr Lucas would say Witness A "your butt is getting big" and "you know what Witness A [sic] stands [sic].. venereal."

Witness A confirmed that Mr Lucas would call her "venereal" in front of the children.

Witness C stated that Mr Lucas would frequently make derogatory comments to Witness A such as describing her as "venereal", that she had a "big bum" and negative comments on the "way she dressed".

Witness C confirmed that Mr Lucas would call Witness A "venereal" and that she had a "big behind".

Witness B was also questioned about this allegation at the hearing. Witness B stated that she asked Witness A whether she knew what the word "venereal" actually meant. Witness B explained that she had to tell Witness A the meaning behind the word.

The panel found that the witnesses' accounts of events were consistent and credible.

The panel found allegation 1d proved.

1. On various dates, he failed to maintain high standards of behaviour in that he

f) Made homophobic references to Witness C, describing him as "gay" or words to this effect,

The panel assessed all of the evidence before it. The panel took into account Mr Lucas' written evidence stating that he refuted that he ever made homophobic references to Witness C. The panel noted Mr Lucas' comments that [redacted] he would consider it highly inappropriate to make homophobic references to anyone.

Witness C explained that Mr Lucas would "often called me gay, and other homophobic slurs." The panel heard evidence from Witness C during the hearing that Mr Lucas would describe him as "a gay boy."

Witness A stated that Mr Lucas "would make comments about Witness C being gay or wearing a dress at the weekend". Witness A confirmed that these comments were also said in front of pupils.

The panel also heard evidence from Witness B stating that Mr Lucas would "infer that Witness C was gay."

The panel considered Mr Lucas' comments about [redacted] who would consider it to be highly inappropriate to make homophobic references. The panel considered that a person can still make homophobic references [redacted].

The panel preferred the evidence of the witnesses and found that their evidence was consistent and credible.

The panel found allegation 1f proved.

1. On various dates, he failed to maintain high standards of behaviour in that he

g) Swore in front of pupils,

The panel assessed all of the evidence before it. The panel took into account Mr Lucas' written evidence stating that he did swear in front of a pupil. Mr Lucas explained in his evidence that the reason for doing so was during an intervention with the pupil, he fell to the ground, hurting his knee and as a result, he said "shit", in pain. The panel noted that Mr Lucas said that he apologised to the pupil in question and notified the Individual A at the earliest convenience of his actions as well as informing the pupil's parents.

The Individual A confirmed that Mr Lucas had informed him that he has sworn in front of pupils. When hearing Individual A's oral evidence, Individual A confirmed that Mr Lucas had sworn in front of pupils.

The panel also heard evidence from Witness A, explaining an incident where Mr Lucas had sworn at a pupil because the pupil would not go into assembly and Mr Lucas said "You're fucking going in."

When reaching its decision, the panel also noted the witness evidence in relation to Mr Lucas' tendency to swear in front of staff. The panel referred to the incident when Mr Lucas has told Witness A "to take your fucking scarf off".

The panel found the evidence from the witnesses compelling.

The panel found allegation 1g proved.

2. On various dates, you failed to have regard to the need to safeguard pupils' well-being in that you

a) Pulled Pupil A by his legs and held him upside down in a room on your own, contrary to the Academy's policy and training, causing his head to hit the floor, on or about 25 April 2017,

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence admitting that he removed the pupil from under the table by pulling his ankles. The panel considered Mr Lucas' account of the incident, describing a table being toppled over by Pupil A very near to where Mr Lucas was sitting.

Witness A had described leaving Pupil A in the room with Mr Lucas for less than two minutes and when she walked back in, Mr Lucas was holding Pupil A upside down. The panel heard evidence from Witness A describing Pupil's A head "just slammed the floor." Witness A said that Pupil A was screaming so loud "my head, my head".

Witness A told the panel that she thought Pupil A had "broken his neck." Witness A went on to describe Pupil A as "small and tiny."

Individual A confirmed at the hearing that he viewed the CCTV footage of the incident and described Mr Lucas pulling Pupil A by the ankle, lifting him up and his head being about an inch above the floor. Individual A confirmed that Pupil A's head was off the ground. Individual A informed the panel that Pupil A's head made contact with the floor first as Pupil A was being lowered to the ground. Individual A explained that he thought that when Pupil A's head made contact with the floor, it was more on the side of "gently than not gently." Individual A stated that Mr Lucas' looked frustrated.

The panel also considered the documentary evidence of the disciplinary investigation at page 130 of the bundle and noted their description of the incident after they had watched the CCTV footage. They referred to Pupil A being "put head first on the floor".

Both Witness A and Individual A confirmed in their evidence that Mr Lucas had held Pupil A in a Restrictive Physical Intervention (RPI) incorrectly.

When making its decision, the panel carefully considered all of the evidence before it. The panel noted that Mr Lucas admitted to pulling the pupil by the ankles. The panel also considered the accounts from the witnesses of seeing Mr Lucas holding Pupil A upside down. The panel read the Positive Handling Policy; The Use of RPI and found this hold to be contrary to the School's policy and training. The panel noted that holding a pupil upside down was inappropriate in any situation. After hearing the evidence from the witnesses and reading all of the written evidence associated with this allegation, the panel found that Pupil A's head did make contact with the floor first.

The panel heard evidence from all witnesses in relation to what Mr Lucas could have done in these circumstances. Witness B described the child as a "little character" and that "he didn't need to be held." Witness B described other ways in which Mr Lucas could have dealt with the Pupil A to deescalate the situation.

The panel was satisfied that Pupil A's head did make contact with the floor. The panel considered the word "hit" as required by the allegation. The panel does not consider that the word "hit" requires the contact to be forceful.

The panel found allegation 2a proved.

- 2. On various dates, you failed to have regard to the need to safeguard pupils' well-being in that you**
 - c) Held Pupil B against the wall by the throat,**

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence stating that he would never hold a pupil by the throat. Mr Lucas stated that such behaviour would be regarded as a safeguarding issue, which should have been reported immediately to the School's safeguarding lead.

Witness C described the incident as "the worst thing I have ever seen." Witness C stated that he was outside the room, but witnessed what had happened from the window in the door. Witness C described the way in which Mr Lucas used his hand to push the child against the wall. Witness C informed the panel that Mr Lucas had told him after the incident that "you didn't see that".

The panel tested Witness C's evidence to establish the positioning of Mr Lucas' hand. Witness C stated that it was the lower part of the throat, expanding to the collar area.

Witness C informed the panel that if an incident of this kind had happened now he would have run to get the relevant people involved. Witness C explained that at the time of the incident, he felt he was under pressure and at his most vulnerable time at the School. Witness C stated that he felt Mr Lucas was "in charge of me."

The panel preferred the evidence of Witness C and found him to be a credible witness.

The panel found allegation 2c proved.

2. On various dates, you failed to have regard to the need to safeguard pupils' well-being in that you

d) Called Pupil C a "little shit" or words to this effect.

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence stating that he did swear when he called out "shit" in pain as he fell and hit the ground. However, Mr Lucas did not recall calling the pupil a "little shit".

The panel noted that Witness C was present at the time of this incident. Witness C stated that Mr Lucas did call Pupil C a "little shit" as a reaction to hurting his knee when holding Pupil C. Witness C explained that as a result of the remark, Pupil C reacted and attacked both Mr Lucas and himself. Witness C stated that as the child was calming down, if Mr Lucas had not called the pupil a "little shit", Pupil C would not have attacked them.

The panel considered the written and oral evidence of Witness B. The panel noted that Witness B was not present at the incident. Witness B stated that Mr Lucas came to see her after the incident and was remorseful for what he had done. Witness B said that Mr Lucas did tell Individual A about the incident. Witness B informed the panel that Mr Lucas had told her that he did call the pupil a "little shit."

The panel also considered oral evidence from the Individual A. Individual A could not recall whether Mr Lucas had called Pupil C a "little shit".

Witness A stated in her written evidence that she was present at the time of this incident. Witness A explained that Mr Lucas had hurt himself whilst holding Pupil C, and called Pupil C “a fucking little shit.” The panel tested the evidence at the hearing and Witness A stated that “I know Mr Lucas called Pupil C a fucking little shit.”

Whilst the panel considered there was some variation of the exact expression, the word “shit” and it being directed to the pupil was consistent. The panel preferred the evidence of Witnesses A, B and C and considered their accounts credible.

The panel found allegation 2d proved.

The panel found the following particulars of the allegations against Mr Lucas not proven, for these reasons:

- 1. On various dates, he failed to maintain high standards of behaviour in that he**
 - e) Put undue pressure on Witness B to return to work early following an operation,**

The panel assessed all of the evidence before it. The panel took into account Mr Lucas’ dispute in relation to this allegation. The panel noted Mr Lucas’ comments that he was not involved in Witness B’s return to work, which was dealt with by Individual A.

The School was fully aware of the reason for Witness B’s sickness leave as Witness B was undergoing a major operation.

The panel took the written and oral evidence of Witness B into account. Witness B explained that before she went on sickness leave, she had planned ahead to organise the work with Witness A for when she returned to ensure she had a smooth transition on return. However, Witness B explained that whilst on sickness leave, Mr Lucas had reorganised her plans, and had asked Witness A to throw away certain plans Witness B had made. Witness B also explained that she had received phone calls to her home from work when she had been off on sickness leave which occurred during the time the team meetings would take place, which was once a week. Witness B explained in her oral evidence that she felt that there was pressure to answer the calls although she only answered 2 calls. She felt that the calls were like a “double edged sword” as the team were her friends and would ask her how she was doing; however she perceived the contact as a pressure to return to work.

The panel is satisfied that there were significant failures by the School in managing Witness B’s sickness leave, her phased return to work and support for her wellbeing on her return to work from a major operation. There is, however, limited evidence that any of those failures were those of Mr Lucas. Whilst the panel accept that Mr Lucas who was covering Witness B’s class would have wished for her to return, this of itself, without further evidence, does not constitute undue pressure.

The panel did not find allegation 1e proved against Mr Lucas.

2. On various dates, you failed to have regard to the need to safeguard pupils' well-being in that you

b) Picked Pupil A up and pulled him around like a rag doll,

The panel had already determined that they were concerned that the amendment proposed to allegation 2b by the presenting officer altered the scope of the allegation. The panel did not consider that it would be in the interests of justice to amend the allegation.

The panel found a lack of clarity within the evidence as to whether the allegation related to Pupil A or Pupil B, or both Pupils.

On the balance of probabilities, the panel did not find allegation 2b proved.

3. On various dates, you failed to have proper and professional regard for the ethos, policies, and practices of the Academy in that you

a) Failed to complete incident report forms for incidents involving pupils in which you were involved,

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence stating that he refuted this allegation. Mr Lucas stated that he would often stay late to ensure that incident reports were completed for all incidents in which he had been involved.

The panel also considered the witness evidence of Witnesses A, B, C and Individual A. The panel noted Witness C's comment in relation to incident reports going missing. Witness C recalled an unrelated occasion where he had asked the behaviour lead for an incident report but it had gone missing.

The panel asked all witnesses whether they recognised the signature at the bottom right corner of the incident report relating to the incident with Pupil A on 25 April 2017 on page 107 of the bundle. No witness recognised the signature on the page and could not confirm whether it was Mr Lucas' signature.

The panel also asked Witnesses A, B, C and Individual A about the process for completing the incident report, to which all confirmed that an incident report must be completed after an RPI is carried out.

The panel considered, after hearing the evidence from the witnesses, that poor practice was demonstrated by the School in terms of making sure that the incident reports were completed accurately and in a timely manner. The panel also heard evidence from Witness C where teaching assistants were asked to complete incident reports even when they had no involvement in the RPI. Also, all staff present at an incident should complete a form but this did not appear to be common practice.

The panel considered that it was the School's responsibility to accurately manage the process of recording incidents via the incident forms. The panel considered that proper due diligence was essential when recording such serious incidents and the School failed to manage this process correctly. The presenting officer had not produced evidence regarding for which incidents Mr Lucas had failed to complete the incident forms. The documentary evidence within the bundle showed incident reports that had been completed by Mr Lucas.

Allegation 3a is not found proved by the panel.

3. On various dates, you failed to have proper and professional regard for the ethos, policies, and practices of the Academy in that you

b) Failed to inform Pupil A's parents of the incident in April 2017,

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence stating that he believed that in the first instance Witness A spoke to Pupil A's mother about the incident. Mr Lucas also stated that he vaguely recalls a telephone conversation between himself and Pupil A's parents when the incident was discussed.

When the panel questioned Witness A as to whether she recalled speaking to Pupil A's parents, Witness A could not recall notifying the parents about the incident.

Witness B stated that during a meeting with all Key Stage 2 staff at some time after the incident, Individual A directed staff not to talk to the parents or inform them of the incident.

When the panel questioned Individual A as to whether he had made these comments, he denied ever doing so. Individual A informed the panel that the parents should have been notified on the day of the incident by one of the members of staff involved in the incident. Individual A stated that he "still doesn't know to this day whether the parents were told."

The panel considered the School's poor practice and management of reporting this incident to Pupil A's parents. The panel noted that the School should have made sure that the parents were notified about the incident as soon as possible. On the balance of probabilities, the panel is not satisfied that Mr Lucas failed to inform Pupil A's parents about the incident in April 2017.

Allegation 3b is not found proved by the panel.

3. On various dates, you failed to have proper and professional regard for the ethos, policies, and practices of the Academy in that you

c) Failed to and/or refused to attend Restrictive Physical Intervention training agreed for Key Stage 2 staff following the incident with Pupil A.

The panel assessed all of the evidence before it. The panel considered Mr Lucas' written evidence stating that he did not attend the RPI training as he believed that he had a

meeting scheduled to take place at the same time. Mr Lucas also stated that he did not intend to carry out any more RPI holds.

Individual A informed the panel that he had arranged for the RPI training for the Key Stage 2 staff. When the panel questioned whether the RPI training was mandatory, Individual A said that as the request for training came from the staff, he had not given any instruction that staff should attend; he was not aware until months later that Mr Lucas had not attended.

The panel noted that due to the serious incident with Pupil A in April 2017, this training should have been mandatory, especially for Mr Lucas. The panel noted the poor practice of the School which resulted in Mr Lucas' failure to attend.

Allegation 3c is not found proved by the panel.

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 Lucas, in relation to the facts found proven, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mr Lucas 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 Lucas amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Lucas' conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel found that the offence of intolerance on the grounds of sexual orientation to be relevant.

Accordingly, the panel is satisfied that Mr Lucas is guilty of unacceptable professional conduct.

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

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

Having found the facts of particulars 1a, 1b, 1c, 1d, 1f, 1g, 2a, 2c and 2d proved, the panel further found that Mr Lucas' 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.

In the light of the panel's findings against Mr Lucas, which involved failing to maintain high standards of behaviour when engaging with fellow colleagues, failing to have regard to the need to safeguard and protect pupils' well-being and failing to have proper and professional regard for the ethos, policies and practices of the School there was a strong public interest consideration in declaring proper professional standards of conduct in the profession and well as the duty to safeguard and protect pupils.

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

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

Notwithstanding 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 Lucas.

The panel considered whether there was a public interest consideration in retaining the teacher in the profession, since no doubt has been cast upon his abilities as an educator. However, the panel gave less weight to this public interest consideration given the serious nature of the misconduct.

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 Lucas. 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 are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the well-being of pupils, and particularly where there is a continuing risk;
- abuse of position of trust (particularly involving vulnerable pupils) or violation of the rights of pupils;
- sustained or serious bullying, or other deliberate behaviour that undermines the school or colleagues;

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 whether or not there were sufficient mitigating factors to mitigate against the appropriateness and proportionality of a prohibition order, particularly taking into account the nature and severity of the behaviour in this case.

The panel first considered whether it would be proportionate to conclude the case without a recommendation of prohibition, considering whether the publication of findings made by the panel would be sufficient.

There was no evidence that the teacher's actions were not deliberate.

There was no evidence to suggest that the teacher was acting under duress.

The teacher did have a previously good history. The panel had limited evidence regarding the teacher's history, although the witnesses did confirm that he was motivated to achieve high standards on behalf of the pupils.

The panel saw evidence that the teacher was previously subject to disciplinary proceedings/warnings. The panel noted that as part of the disciplinary investigation a review was undertaken of his personal file and the panel noted the comments made on page 243 which appear to relate to similar issues. The panel has however not attached significant weight to the previous conduct matters as it was unclear as to the outcomes.

The panel considered the statement from the [redacted] for Nottingham [page 310 of the bundle].

The panel also noted the following mitigating factors:

- Mr Lucas' ongoing medical conditions, [redacted].
- [Redacted].
- [Redacted].
- Failure by senior leadership to apply policies and procedures regarding:
 - i. a risk assessment regarding Mr Lucas' ongoing medical conditions, particularly on his return to work following a sickness absence in February 2017,
 - ii. lack of a clear, consistent and transparent approach by the School to the completion of incident report forms and action required following incidents, including contacting parents,
 - iii. a failure to investigate and address issues raised by staff concerning bullying and other unprofessional conduct by Mr Lucas.
- Increased pressure from the School's senior leadership team to show pupils' progress and to move pupils' onto new settings;
- A lack of training as a member of the middle leadership team since 2015 and no appraisal since 2016; and,
- The culture of banter that was prevalent in KS2

The panel was of the view that, applying the standard of the ordinary intelligent citizen, a recommendation of no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings was sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for the teacher 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 Lucas. There were significant safeguarding issues in relation to more than one pupil and

these pupils were vulnerable because of the nature of the School. There was sustained bullying and intimidation of his team, in particular, the unqualified teaching staff and teaching assistants who felt that their jobs were threatened and therefore felt unable to speak out. Having had regard to the mitigation, the panel does not believe this excuses Mr Lucas' behaviour. Mr Lucas was an experienced, qualified teacher in a middle leadership role who therefore would be expected to display and role model professional behaviour. In relation to the medical conditions, whilst the panel accepts that no risk assessments were carried out by the School, it was also Mr Lucas' obligation to identify and request such risk assessments to be carried out. Whilst the panel recognised significant failings by the School management, including not responding to Mr Lucas' perception that he was under undue work pressure, the panel did not consider that this excuses Mr Lucas' unprofessional behaviour towards staff and pupils. Mr Lucas as an experienced middle leader should not have needed to have been told that he should have modified his behaviour. As team leader of Key Stage 2, it was Mr Lucas' responsibility to set the correct professional tone and appropriate team culture.

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 that a review period of the order should be considered. 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. This behaviour includes intolerance on the grounds of sexual orientation. However, the panel also found that Mr Lucas was responsible for sustained intimidation and bullying of junior staff, some of which occurred in front of pupils and serious breaches of safeguarding in relation to physical contact with vulnerable pupils contrary to national safeguarding guidelines.

Mr Lucas has shown limited insight and understanding of the impact of his actions, particularly in regard to vulnerable pupils, their parents, junior colleagues, the School and the profession.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

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

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

The panel also considered whether Mr Lucas' conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice. The panel state that it "found that the offence of intolerance on the grounds of sexual orientation to be relevant."

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 Lucas, 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, “there were significant safeguarding issues in relation to more than one pupil and these pupils were vulnerable because of the nature of the School.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Mr Lucas has shown limited insight and understanding of the impact of his actions, particularly in regard to vulnerable pupils, their parents, junior colleagues, the School and the profession.”

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 has taken 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 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 Lucas himself. The panel comment “The teacher did have a previously good history. The panel had limited evidence regarding the teacher’s history, although the witnesses did confirm that he was motivated to achieve high standards on behalf of the pupils.”

A prohibition order would prevent Mr Lucas 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 behaviours shown. The panel has said, "There were significant safeguarding issues in relation to more than one pupil and these pupils were vulnerable because of the nature of the School. There was sustained bullying and intimidation of his team, in particular, the unqualified teaching staff and teaching assistants who felt that their jobs were threatened and therefore felt unable to speak out."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Lucas 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 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 that it found "there are behaviours that, if proven, would militate against the recommendation of a review period. This behaviour includes intolerance on the grounds of sexual orientation. However, the panel also found that Mr Lucas was responsible for sustained intimidation and bullying of junior staff, some of which occurred in front of pupils and serious breaches of safeguarding in relation to physical contact with vulnerable pupils contrary to national safeguarding guidelines."


I have considered whether allowing for no review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are factors which mean that allowing for no review period is necessary and proportionate. These elements are the intolerance on grounds of sexual orientation, the serious breaches of safeguarding, the sustained intimidation and bullying of junior staff and the lack of full insight.

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

This means that Mr Nick Lucas 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 Nick Lucas 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 Nick Lucas 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', with a checkmark at the end.

Decision maker: Alan Meyrick

Date: 22 November 2019

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