



Teaching
Regulation
Agency

Mr Joshua Brandon Lewis: Professional conduct panel outcome

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

February 2020

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

Teacher:	Mr Joshua Brandon Lewis (“Mr Lewis” or “teacher”)
Teacher ref number:	1669290
Teacher date of birth:	01/01/1994
TRA reference:	17348
Date of determination:	21 February 2020
Former employer:	Carlton-le-Willows Academy, Nottingham (the “school”)

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 20 and 21 February 2020 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Joshua Brandon Lewis.

The panel members were Ms Jean Carter (lay panellist – in the chair), Mr Brian Hawkins (teacher panellist) and Mr Roger Woods (former teacher panellist).

The legal adviser to the panel was Mr Tomos Jones of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Mr Phillip Dayle of No5 Chambers.

Mr Joshua Brandon Lewis was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 24 December 2019.

It was alleged that Mr Joshua Brandon Lewis was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that, whilst a teacher at Carlton le Willows Academy:

1. On or about 6 December 2017
 - (a) Mr Lewis said to Pupil A that she had “*nice breasts*” or words to this effect;
 - (b) Mr Lewis said to Pupil B, who had described a drawing as looking like her friend’s vagina, “*if your vagina looks like that you’ve got a problem*” or words to this effect;
2. On or about 21 March 2018
 - (a) Mr Lewis placed his foot above Pupil C’s head;
 - (b) Mr Lewis dragged Pupil D along the floor;
3. On various dates between 7 September 2017 and 25 May 2018
 - (a) Mr Lewis pretended to hit one or more pupils with a metre ruler;
 - (b) Mr Lewis tapped one or more pupils on the back of their heads with a metre ruler;
 - (c) Mr Lewis made contact with a pupil’s chest with a metre ruler;
 - (d) Mr Lewis shot staples from a staple gun at one or more pupils;
 - (e) Mr Lewis pretended to shoot staples from a staple gun at one or more pupils;
 - (f) Mr Lewis placed one or more pupils in a headlock;
 - (g) Mr Lewis twisted the arm of one or more pupils;
 - (h) having spread glue on it, Mr Lewis stuck a sheet of paper to the side of a pupil’s face;
 - (i) Mr Lewis pulled chairs from beneath one or more pupils causing them to fall to the ground;
 - (j) Mr Lewis kicked a chair causing the pupil to fall to the ground;

- (k) Mr Lewis threw a white board pen at one or more pupils;
 - (l) Mr Lewis made derogatory remarks towards one or more pupils such as “blockhead” and “retard”;
 - (m) Mr Lewis used abusive language towards one or more pupils, using terms such as “twat” and “prick”;
- 4. Mr Lewis’ conduct as set out in paragraph 1 was sexually motivated;
 - 5. By Mr Lewis’ conduct as set out in the foregoing paragraphs, Mr Lewis failed to observe a proper boundary appropriate to a teacher’s professional position.

Preliminary applications

Firstly, the panel considered an application from the presenting officer to proceed in the absence of Mr Lewis.

The panel was satisfied that the TRA had complied with the service requirements of paragraph 19 (1) 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 was satisfied that the TRA had sent the Notice of Proceedings to an email address that Mr Lewis had previously responded to and that a hard-copy version had been sent to Mr Lewis’ last home address at least eight weeks before the hearing date.

The panel therefore considered that the teacher had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

Accordingly, 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. The panel also took into account the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1.

The panel also had regard to the requirement that it is only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There was no indication that an adjournment might result in the teacher attending the hearing.

The panel had regard to the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him.

The panel also noted that a witness was present and was ready to give evidence and would be inconvenienced if the hearing was rescheduled.

The panel exercised 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 had regard to the seriousness of the case, and the potential consequences for the teacher and accepted that fairness to the teacher was of prime importance. However, it considered that, in light of the teacher's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as was possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these were serious allegations and the public interest in the hearing proceeding within a reasonable time was in favour of the hearing taking place on the date set out in the Notice of Proceedings.

For the above reasons, the panel decided to proceed with the hearing in the absence of Mr Lewis.

The presenting officer applied to admit a short, supplemental bundle into evidence. The supplemental bundle contained an 'audit trail' regarding the service of the Notice of Proceedings by the TRA on Mr Lewis (the "Supplemental Bundle").

The Supplemental Bundle was not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such the panel was required to decide whether it should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. The panel took into account the representations from the presenting officer to the admission of the Supplemental Bundle. The panel exercised caution in exercising its discretion given that it had determined to proceed with the hearing in the absence of the teacher.

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.

The panel was satisfied that the Supplemental Bundle was relevant to the case as it confirmed that the TRA had sent the Notice of Proceedings to the teacher at least eight weeks before the hearing date, thereby confirming that the TRA had complied with paragraph 4.11 of the Procedures.

By reason of the above, the panel decided to admit the Supplemental Bundle into evidence. The Supplemental Bundle had already been paginated as s1 to s23.

Summary of evidence

Documents

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

Section 1: Chronology, identification key and list of roles – pages 1 to 2

Section 2: Notice of Hearing – pages 3 to 6

Section 3: Teaching Regulation Agency witness statements – pages 7 to 18

Section 4: Teaching Regulation Agency documents – pages 19 to 194

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

Witnesses

The panel heard oral evidence from Witness A, the school's former [REDACTED].
Witness A was called to give evidence by the presenting officer.

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 Lewis had been employed at the school since 1 September 2017 as a newly qualified mathematics teacher.

On or around 6 December 2017, concerns were raised regarding Mr Lewis making inappropriate comments to female students. It is alleged that Mr Lewis said to Pupil A that she had “*nice breasts*” or words to this effect. It was further alleged that Mr Lewis said to Pupil B, who had described a drawing as looking like her friend’s vagina, “*if your vagina looks like that you’ve got a problem*” or words to this effect. It is alleged that Mr Lewis’ conduct in this regard was sexually motivated.

On or around 21 December 2017, Mr Lewis was put on an action plan which incorporated a continuing professional development plan (“CPD”), enhanced observations and mentoring.

On or around 21 March 2018, further concerns were raised regarding Mr Lewis’ conduct towards two male students following an incident that allegedly took place in Mr Lewis’ classroom. As the school’s then investigating officer, Witness A conducted a formal investigation into the incident and a formal investigation report was produced by Witness A on 2 May 2018.

Following the conclusion of Witness A's disciplinary investigation, Mr Lewis received a first written warning and his newly qualified teacher training was extended for another term. Mr Lewis was informed of the outcome of Witness A's disciplinary investigation by letter dated 11 May 2018.

On or around 23 May 2018, additional concerns were raised regarding Mr Lewis' conduct, spanning a period of approximately 8 months. It is alleged that Mr Lewis failed to observe proper boundaries appropriate to a teacher's professional position.

On 25 May 2018, Mr Lewis was suspended from his employment at the school, pending a formal disciplinary investigation. On the same day, Mr Lewis handed in his resignation notice to the school. The school was unable to obtain a response from Mr Lewis in relation to the additional allegations made against him due to his resignation.

On 13 July 2018, Witness A sent a letter to Mr Lewis confirming the outcome of the school's investigation and advising him that the matter had been referred to the TRA.

Findings of fact

The findings of fact are as follows:

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

1. On or about 6 December 2017

- (b) you said to Pupil B, who had described a drawing as looking like her friend's vagina, "*if your vagina looks like that you've got a problem*" or words to this effect;**

The panel considers that, on the balance of probabilities, Mr Lewis said to Pupil B, who had described a drawing as looking like her friend's vagina, "*if your vagina looks like that, you've got a problem*" or words to this effect.

The panel noted that Mr Lewis admitted saying words to this effect to Pupil B in his interview with Witness A on 15 December 2017. As stated by Mr Lewis in that interview, "*this is the part that kind of happened after I handed out sheets.. [Pupil A and B] were constantly giggling making references to vaginas so I made the comment, 'if yours is like that you have a problem'*". In that interview, Mr Lewis accepted that, "*on reflection, it was a stupid comment*".

The panel further noted that there was convincing and consistent hearsay testimony from other pupils who were at the scene of the incident. Pupil A reported in her interview with Witness A on 8 December 2017: "*people were joking about the sheets he gave out.. [Mr Lewis] said, 'if yours looks like that then you have some serious problems'*" whilst Pupil B

confirmed in her interview with Witness A that she was “*positive*” that Mr Lewis had said these words to her. The panel noted that Mr Lewis’ comment had made Pupil B feel, “*really uncomfortable*” and that it had, “*really disturbed*” her.

The panel recognised that Pupils A, B and I were already discussing the topic of vaginas prior to Mr Lewis making this comment. As such, the panel acknowledged that Mr Lewis had not initiated this topic of conversation.

This is consistent with Witness A’s oral testimony, who said that Mr Lewis often engaged in “*classroom banter*” with his pupils. He described Mr Lewis as being “*immature*”. Witness A explained to the panel that he had no reason to suspect that Pupils A, B and I were not telling the truth and he acknowledged that Mr Lewis’ comment had been, “*out of order*”. The panel considered Witness A to be a very credible witness.

The panel took the view that Mr Lewis had not intended to be malicious in making this comment and that he had actually intended for it to be a joke. Nevertheless, the panel considered the comment to be wholly inappropriate.

The panel therefore found this allegation proved.

2. On or about 21 March 2018

(a) you placed your foot above Pupil C’s head;

The panel considers that, on the balance of probabilities, Mr Lewis placed his foot above Pupil C’s head.

During his interview with Witness A on 26 April 2018, Mr Lewis admitted on several occasions to placing his foot above Pupil C’s head: “[*Pupil C*] was lying on the floor, I put my foot over his head”; “*I myself had initiated the situation by placing my foot over him*”; “*putting my foot over his head was a joke*”; “*Yes, I put my foot above his head*”.

In reflecting on his actions, Mr Lewis admitted in his interview with Witness A that he had been “*reckless*” in placing his foot above Pupil C’s head and that it had been a, “*very, very stupid thing to do*”.

The panel considered Mr Lewis’ testimony to be consistent with testimonies given by other pupils who had been present at the incident. Pupil C stated in his interview with Witness A that, “[*Mr Lewis*] put his foot on my head but he waived it over the top... It was hovering over my head and when I tried to get up my head hit his foot for the first time” whilst another pupil claimed that Mr Lewis “*put his shoe on [Pupil C’s] face*”.

The panel considered this hearsay evidence to be consistent and credible.

Therefore, the panel found this allegation proved.

(b) you dragged Pupil D along the floor;

The panel considers that, on the balance of probabilities, Mr Lewis dragged Pupil D along the floor.

Mr Lewis admitted pulling Pupil D along the floor in his interview with Witness A on 26 April 2018: *"I grabbed [Pupil D] by the leg and pulled him a metre away from the kids"; "Yes, I dragged [Pupil D]"*.

The panel noted that Pupil D had suffered a large graze (consistent with a 'carpet burn') to his left shoulder blade and took the view that Mr Lewis' actions had caused Pupil D's injury. This was admitted by Mr Lewis who stated in his interview that, *"[the injury] on [Pupil D's] back was from me. It will have been from me dragging him across the carpet"*. He claimed that he had, *"let things get away from [him]"* and that he had *"lost control of the situation"*.

The panel considered this to be consistent with Pupil D's hearsay testimony. In his interview with Witness A on 22 March 2018, Pupil D stated that, *"they all started kicking me.. [Mr Lewis] dragged me, as far as I can remember, to stop it happening"*.

The panel assessed the weight and reliability of the hearsay evidence, and on the balance of probabilities, it believed that it was more likely than not that Mr Lewis had dragged Pupil D along the floor.

Therefore, the panel found this allegation proved.

3. On various dates between 7 September 2017 and 25 May 2018

(a) you pretended to hit one or more pupils with a metre ruler;

The panel considers that on the balance of probabilities, Mr Lewis pretended to hit one or more pupils with a metre ruler.

The panel noted that Mr Lewis had resigned from the school before providing his response to this allegation. Accordingly, the panel could only rely on hearsay evidence provided by Mr Lewis' former pupils in determining whether this allegation was proved. Nevertheless, the panel considered the pupils' hearsay testimonies to be consistent and credible. In his witness statement, Pupil E stated that: *"Mr Lewis would use a metre ruler and would fake hit pupils"*. Furthermore, Pupil G explained in his witness statement that Mr Lewis, *"pretended he was going to smack pupils on the back of the head with a metre ruler"* and that this had happened, *"more than once"*.

Therefore, the panel found this allegation proved.

(b) you tapped one or more pupils on the back of their heads with a metre ruler;

The panel considers that on the balance of probabilities, Mr Lewis tapped one or more pupils on the back of their heads with a metre ruler.

In his interview with Witness A, Pupil H explained that Mr Lewis, “*tapped people with metre stick [sic]*” and that Mr Lewis had, “*hit [him] on head with ruler couple of times [sic]*”. This was consistent with another pupil’s interview testimony given to Witness A: “*[Mr Lewis] prances around the room with this ruler and taps kids..*” as well as Pupil H’s testimony: “*[Mr Lewis] has hit me on the head with a ruler couple of times to get my attention [sic]*”.

The panel considered the hearsay evidence provided by Mr Lewis’ former pupils to be consistent and credible.

Therefore, the panel found this allegation proved.

(d) you shot staples from a staple gun at one or more pupils;

The panel considers that on the balance of probabilities, Mr Lewis shot staples from a staple gun at one or more pupils.

In his witness statement, Pupil F claimed that, “*on numerous occasions, Mr Lewis got a staple gun and fired the staples at students. The staples would hit pupils but would not pierce their skin*”. This was corroborated by Pupil G, who confirmed in his witness statement that Mr Lewis, “*would shoot staples from a staple gun at pupils*”. In his interview with Witness A, Pupil H explained that Mr Lewis, “*aimed the staple gun and then shot a few staples out*”.

The panel considered the hearsay evidence provided by Mr Lewis’ former pupils to be consistent and credible.

Therefore, the panel found this allegation proved.

(e) you pretended to shoot staples from a staple gun at one or more pupils;

The panel considers that on the balance of probabilities, Mr Lewis pretended to shoot staples from a staple gun at one or more pupils.

In her witness statement, Pupil E stated that Mr Lewis, “*pretended to shoot staples at pupils by pointing a stapler at them and pretending to click the button*”. She explained that this was done, “*in a jokey way*”.

In his oral testimony, Witness A explained to the panel that Mr Lewis had pretended to shoot staples from a staple gun at two Year 7 pupils who had entered his classroom. According to Witness A, this had scared the two Year 7 pupils, resulting in them running out of his classroom.

The panel considered Witness A's oral testimony to be consistent with Pupil F's interview testimony: *"there was a time where he had a staple gun and he greeted us with it and pressed it, there were no staples in it.. he has pretended to fire it at around 7 people"*, as well as Pupil H's testimony: *"there was a time when another pupil came to the classroom to borrow a pair of scissors or something and Mr Lewis either fired the staples at her or pretended. The pupil got scared and went away"*.

The panel assessed the weight and reliability of the hearsay evidence, and on the balance of probabilities, it believed that it was more likely than not that Mr Lewis had pretended to shoot staples from a staple gun at one or more pupils.

Therefore, the panel found this allegation proved.

(f) you placed one or more pupils in a headlock;

The panel considers that on the balance of probabilities, Mr Lewis placed one or more pupils in a headlock.

In his witness statement, Pupil F recalled Mr Lewis putting him in a headlock: *"I was chatting, [Mr Lewis] pulled the chair and got me in a headlock.. he was having a joke but not seen as a joke by me [sic]"*. Pupil A also recalled Mr Lewis, *"putting [another pupil] into a headlock"*.

The panel assessed the weight and reliability of the hearsay evidence, and on the balance of probabilities, it believed that it was more likely than not that Mr Lewis had placed one or more pupils in a headlock.

Therefore, the panel found this allegation proved.

(h) having spread glue on it, you stuck a sheet of paper to the side of a pupil's face;

The panel considers that on the balance of probabilities, Mr Lewis, having spread glue on it, stuck a sheet of paper to the side of a pupil's face.

In his witness interview with Witness A, a former pupil of Mr Lewis' explained that Mr Lewis got a piece of paper which had been *"smeared"* with glue and hit him on the side of his face with it. The pupil in question explained in his interview with Witness A that he had asked Mr Lewis whether he could leave the classroom in order to wash off the glue

from the side of his face, to which Mr Lewis had replied: “no”. The pupil in question explained that he had been, “*tempted to walk out and go to student support*”.

The pupil in question explained that this was “*normal*” behaviour for Mr Lewis. However, the incident had made him feel “*uncomfortable*”. The pupil described Mr Lewis’ conduct as “*disgraceful*”.

Despite this, the panel recognised that the pupil had called Mr Lewis, “*a good teacher*” in his interview and as a result, the panel took the view that the pupil’s hearsay evidence was credible and fair. Additionally, the panel considered this allegation to be very specific in nature and not the type of generic allegation that was likely to have been made up.

On the balance of probabilities, the panel believed that it was more likely than not that Mr Lewis, having spread glue on it, stuck a sheet of paper to the side of a pupil’s face.

Therefore, the panel found this allegation proved.

(i) you pulled chairs from beneath one or more pupils causing them to fall to the ground;

The panel considers that on the balance of probabilities, Mr Lewis pulled chairs from beneath one or more pupils causing them to fall to the ground.

In his witness statement, Pupil F claimed that Mr Lewis, “*would pull pupils off their chairs by grabbing the legs of the chairs and they would fall off*”. Pupil F considered this to be, “*quite dangerous*”. Pupil F said that Mr Lewis did this to him, “*around 2 to 3 times*”.

This was corroborated by Pupil H, who explained in his witness statement that, “*Mr Lewis would pull pupils of their chairs.. Mr Lewis would grab the chair and pull it backwards and the pupil would fall backwards with the chair*”.

Another of Mr Lewis’ former pupils stated in his interview with Witness A that, “*Mr Lewis would grab you by the neck and push you back on your chair and make you think you were going to fall and then do it again and let you fall*”.

The panel considered the hearsay evidence provided by Mr Lewis’ former pupils to be consistent and credible.

Therefore, the panel found this allegation proved.

(j) you kicked a chair causing the pupil to fall to the ground;

The panel considers that on the balance of probabilities, Mr Lewis kicked a chair causing the pupil to fall to the ground.

The panel considered hearsay evidence given by one of Mr Lewis’ former pupils in an

interview with Witness A. In that interview, the pupil in question stated that, *“sometimes, when people are swinging on their chairs, [Mr Lewis] will kick their chairs while they are swinging on it. It they are leaning forward, he will kick the back leg”*.

Witness A asked the pupil to confirm how often Mr Lewis had done this, to which the pupil responded: *“since September 2017, he has kicked two chairs and people have fallen”*. The pupil acknowledged that those pupils had not been hurt; they, *“just got back up and got on with their work”*.

On the balance of probabilities, the panel believed that it was more likely than not that Mr Lewis had kicked a chair causing the pupil to fall to the ground.

Therefore, the panel found this allegation proved.

(l) you made derogatory remarks towards one or more pupils such as “blockhead” and “retard”;

The panel considers that on the balance of probabilities, Mr Lewis made derogatory remarks towards one or more pupils such as “blockhead” and “retard”.

The panel considered hearsay evidence given by one of Mr Lewis’ former pupils in an interview with Witness A. In that interview, the pupil in question stated that Mr Lewis had said to two pupils: *“you don’t do any work cos you are retards [sic] or something like that”*.

However, the panel was not presented with any evidence to suggest that Mr Lewis had called any pupils a “blockhead”. The presenting officer was unable to identify this specific remark being referred to by any of Mr Lewis’ former pupils in their respective hearsay testimonies.

Based on the hearsay evidence provided to it and the oral testimony given by Witness A, the panel was persuaded by pupil evidence that Mr Lewis used derogatory language on several occasions.

On the balance of probabilities, the panel believed that it was more likely than not that Mr Lewis made derogatory remarks towards one or more pupils.

Therefore, the panel found this allegation proved.

(m) you used abusive language towards one or more pupils, using terms such as “twat” and “prick”;

The panel considers that on the balance of probabilities, Mr Lewis used abusive language towards one or more pupils, using terms such as “twat” and “prick”.

In his witness statement, Pupil H explained that Mr Lewis would swear, but this was not

usually directed at anyone in particular. Instead, Pupil H stated that Mr Lewis would say, *“stop pissing about”* or *“get on with work don’t be pricks”*.

The panel considered hearsay evidence given by one of Mr Lewis’ former pupils in an interview with Witness A. In that interview, the pupil in question claimed that Mr Lewis, *“said things that were not bad but not right... I think one was ‘prick’”*. This was corroborated by another former pupil of Mr Lewis’ who said in his interview with Witness A that Mr Lewis had, *“said the odd bad word, ‘prick’, ‘twat’...”* He claimed that he had heard Mr Lewis say these words “2 or 3” times but acknowledged that these words had not necessarily been aimed at anyone in particular.

Furthermore, in her interview testimony, Pupil E said that, *“[Mr Lewis] has called me a twat before and a prick”*.

The panel considered the hearsay evidence provided by Pupil H, Pupil E and Mr Lewis’ former pupils to be consistent and credible.

Therefore, the panel found this allegation proved.

5. By your conduct as set out in the foregoing paragraphs, you failed to observe a proper boundary appropriate to a teacher’s professional position.

The panel considers that on the balance of probabilities, by Mr Lewis’ conduct as set out in the foregoing paragraphs, Mr Lewis failed to observe a proper boundary appropriate to a teacher’s professional position.

In making its determination, the panel was persuaded by the oral testimony given by Witness A, who the panel considered to be a very credible witness.

Witness A stated that Mr Lewis, *“did not keep to proper boundaries”* and often acted, *“inappropriately”*; his conduct was, *“unbecoming of a teacher”*. Witness A considered Mr Lewis to be, *“immature”* and explained that Mr Lewis enjoyed joining in with the pupils’ *“banter”*. However, the panel took the view that Mr Lewis had, on various occasions, crossed the line in this regard and that his conduct, as set out in the foregoing paragraphs, had been inappropriate.

Witness A did not consider Mr Lewis to be, *“nasty”* or *“malicious”* and the panel considered the following statement made by Witness A to be particularly relevant: *“[Mr Lewis] did not, at any point, intend to hurt the pupils.. but he was reckless”*.

On the balance of probabilities, by Mr Lewis’ conduct as set out in the foregoing paragraphs, Mr Lewis failed to observe a proper boundary appropriate to a teacher’s professional position.

Therefore, the panel found this allegation proved.

The panel found the following particulars of the allegations against you not proved, for these reasons:

1. On or about 6 December 2017

(a) you said to Pupil A that she had “*nice breasts*” or words to this effect;

The panel considers that on the balance of probabilities, Mr Lewis did not say to Pupil A that she had, “*nice breasts*” or words to this effect.

The panel acknowledged that both Pupils A and Pupil B had stated in their respective interviews with Witness A that Mr Lewis had said words to this effect to Pupil A. Pupil A explained that, “[Pupil B] accidentally elbowed my breast and sir whispered under his breath ‘you have nice breasts’”, whilst Pupil B stated that, “[Mr Lewis] said ‘you’ve got nice boobs or something like that’”.

The panel considered there to be an inconsistency regarding the exact word used by Mr Lewis when the comment was allegedly made. Pupil A said that Mr Lewis had used the word “*breasts*”, whereas Pupils B and I said that Mr Lewis had used the word “*boobs*”.

Given the seriousness of the allegation, the panel took the view that had Mr Lewis made the comment, there would have been no discrepancies between the accounts given by Pupils A and B.

The panel considered it noteworthy that Witness A had asked leading questions to Pupils A, B and I when interviewing them about the allegation. The panel took the view that, had Witness A asked open questions to Pupils A, B and I, their answers may have been different.

The panel considered it noteworthy that when asked by Witness A to confirm how sure she was that Mr Lewis had made the comment to Pupil A, Pupil B replied, “*pretty sure*” before changing her mind and saying, “*positive*”.

In his oral testimony, Witness A confirmed that there had been a delay between Pupil B saying “*pretty sure*” and then “*positive*”, which the panel considered to be significant. The panel took the view that, had Mr Lewis made this comment to Pupil A, Pupil B would not have said that she was “*pretty sure*” that the comment had been made. Therefore, the panel considered that Pupil B’s testimony lacked sufficient certainty.

In his oral testimony, Witness A stated that Mr Lewis had been open and co-operative in answering questions relating to the allegations made against him. However, Witness A explained that Mr Lewis’ body language changed dramatically when he was asked questions relating to this specific allegation. Whereas Mr Lewis had admitted to the other allegations, Witness A explained that Mr Lewis had “*vehemently*” denied making this comment to Pupil A, which the panel considered to be significant.

On the balance of probabilities, the panel believed that it was more likely than not that Mr Lewis did not say to Pupil A that she had “*nice breasts*” or words to this effect.

Therefore, the panel found this allegation not proved.

3. On various dates between 7 September 2017 and 25 May 2018

(c) you made contact with a pupil’s chest with a metre ruler

The panel considers that on the balance of probabilities, Mr Lewis did not make contact with a pupil’s chest with a metre ruler.

The panel acknowledged that Mr Lewis had pretended to hit one or more pupils with a metre ruler and that he had tapped and prodded one or more pupils on the back of their heads with a metre ruler (see allegations 3(a) and (b) above).

Nevertheless, no evidence was presented to suggest that Mr Lewis had specifically made contact with a pupil’s chest with a metre ruler.

Therefore, the panel found this allegation not proved.

(g) you twisted the arm of one or more pupils;

The panel considers that on the balance of probabilities, Mr Lewis did not twist the arm of one or more pupils.

The panel considered hearsay evidence given by one of Mr Lewis’ former pupils in an interview with Witness A. In that interview, the pupil stated that Mr Lewis had, “*chased Pupil G around the classroom and he managed to get him and twisted his arm*”.

However, the panel did not consider this evidence to be consistent with that given by Pupil G. When asked by Witness A about the incident on 13 June 2018, Pupil G said that he didn’t remember it happening and suggested that it might have happened to “*somebody else*” instead.

In his witness statement dated 29 March 2019, Pupil G changed his account and suggested that Mr Lewis had in fact twisted his arm: “*[Mr Lewis] came over to me and put my arm behind my back in a way to force me to move to the other side of the classroom*”. He explained that he had not wanted to tell Witness A about the incident when interviewed about it, because he, “*liked Mr Lewis as a teacher and he didn’t want to get him in any more trouble*”.

Nevertheless, the panel considered that Pupil G’s hearsay testimony lacked sufficient clarity and consistency.

Accordingly, on the balance of probabilities, the panel was not convinced that Mr Lewis twisted the arm of one or more pupils.

Therefore, the panel found this allegation not proved.

(k) you threw a white board pen at one or more pupils;

The panel considers that on the balance of probabilities, Mr Lewis did not throw a white board pen at one or more pupils.

The panel considered hearsay evidence given by one of Mr Lewis' former pupils in an interview with Witness A. In that interview, the pupil stated that Mr Lewis, "*was getting a whiteboard pen and threw it near them [sic]*".

However, the panel considered it significant that in Pupil E's witness statement, she described it as a "*pen*" as opposed to a "*white board pen*": "*if Mr Lewis was handing pens out, and pupils wanted one, he would throw it at them*".

In a separate interview given by one of Mr Lewis' former pupils, the pupil in question did not recall Mr Lewis throwing any pens (or white board pens) at any pupils: "*I don't remember seeing [Mr Lewis] throwing pens*".

In light of this, the panel considered there to be a lack of consistent evidence relating to this particular allegation.

Therefore, the panel found this allegation not proved.

4. Your conduct as set out in paragraph 1 was sexually motivated;

The panel considers that on the balance of probabilities, Mr Lewis' conduct as set out in paragraph 1 was not sexually motivated.

The panel did not consider there to be evidence to suggest that Mr Lewis' conduct was sexually motivated.

In his oral testimony, Witness A made a firm statement that in his view, Mr Lewis' conduct was not sexually motivated.

The panel found allegation 1(a) to be not proved and therefore, this allegation was not considered by the panel when determining whether Mr Lewis' conduct was sexually motivated.

With regards to allegation 1(b), the panel considered it noteworthy that Pupils A, B and I were already discussing the topic of vaginas prior to Mr Lewis making the comment. As such, the panel acknowledged that Mr Lewis had not initiated this topic of conversation.

The panel took the view that Mr Lewis' comment was not sexually motivated; he had actually intended for it to be a joke (albeit a wholly inappropriate one).

The panel took the view that a reasonable person would not consider Mr Lewis' comment to be sexual, if that reasonable person was aware of the context in which the comment had been made.

The panel believed that sexual motivation could not be inferred from all of the circumstances of the case. The panel had not been presented with any evidence to suggest that Mr Lewis had made sexual advances with respect to any of his pupils.

The panel took into account the definition of sexual motivation referred to in the case of *Basson v General Medical Council* [2018] EWHC 505 – i.e. that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship. The panel did not consider either of these definitions to be applicable to Mr Lewis' conduct as set out in paragraph 1.

Accordingly, on the balance of probabilities, the panel believed that it was more likely than not that Mr Lewis' conduct as set out in paragraph 1 was not sexually motivated.

Therefore, the panel found this allegation not proved.

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

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

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

The panel was satisfied that the conduct of Mr Lewis, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Lewis 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...

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

The panel also considered whether Mr Lewis' 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 in this case.

Accordingly, the panel was satisfied that Mr Lewis 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 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 Lewis' actions constituted conduct that may bring the profession into disrepute.

Accordingly, the panel found that Mr Lewis' 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 on Page 12 of the Advice and, having done so, found some of them to be relevant in this case,

namely: the protection of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct and the interest of retaining the teacher in the profession.

In light of the panel's findings against Mr Lewis, the panel considered that there was a strong public interest consideration in respect of the protection of pupils.

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

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

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 Lewis. 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; and
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

In the light of the panel's findings, there was no evidence to suggest that the teacher's actions had not been deliberate. The panel noted that Mr Lewis had already admitted to many of the allegations found proved by the panel. The panel had not been presented with any evidence to suggest that Mr Lewis' conduct had been accidental.

The panel considered Mr Lewis to have been a very inexperienced teacher, who was still developing skills in classroom management. The panel noted that in his interview with Witness A, Mr Lewis acknowledged himself that he had, "*lost control*" of his classroom. As such, the panel considered Mr Lewis to be incompetent, as opposed to malevolent.

Nevertheless, the panel considered Mr Lewis to be a continuing risk to pupils; it had not been provided with any evidence to suggest that Mr Lewis' behaviour would improve, if he was retained as a teacher. The panel acknowledged that it might have taken a different view, had it been able to challenge Mr Lewis on this point.

The panel noted that Mr Lewis had been put on an action plan which incorporated a CPD, enhanced observations and mentoring. However, the panel had not been presented with any evidence to suggest that his behaviour had improved as a result of being put on the action plan. The panel took the view that Mr Lewis may have benefited from increased supervision whilst he was on the action plan, given that his inappropriate behaviour had spanned a period of approximately eight months and had gone unnoticed by the school.

The panel noted that Mr Lewis was not acting under duress.

Given that Mr Lewis was a newly qualified mathematics teacher, the panel acknowledged that Mr Lewis was a new teacher and was not in a position to have developed a previously good teaching record.

The panel took into account that, in his oral testimony, Witness A stated that Mr Lewis had a reputation for being a, "*fully committed*" teacher who delivered extra teaching sessions; attended meetings and engaged with his CPD. Witness A also claimed in his oral testimony that Mr Lewis had been, "*collaborative*" and fully engaged during Witness A's disciplinary investigation. In addition, he praised Mr Lewis for his subject knowledge in mathematics.

The panel took into consideration that numerous pupils had described Mr Lewis as a good mathematics teacher. For example, Pupil G stated in his witness statement that: "*I do not think that Mr Lewis did anything to intentionally hurt pupils... Mr Lewis was still a good maths teacher but the other side of him let him down*".

Nevertheless, the panel noted that Mr Lewis had not engaged with the TRA's disciplinary hearing process. He had voluntarily decided not to attend the hearing and he had not shown any remorse or insight to the panel for his actions.

In considering whether it would be proportionate to recommend a prohibition order, the panel took into account whether there was a public interest in Mr Lewis being able to continue to teach. In making its recommendation, the panel took into account the case of *Wallace v Secretary of State for Education* where it was found that the teacher concerned had made an exceptional contribution to education and there was a public interest in him being able to continue to teach. The panel took into consideration that, based on the evidence given by Witness A and Mr Lewis' former pupils, Mr Lewis was a good mathematics teacher.

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 Lewis 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 Lewis. 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. However, the panel did not consider any of these behaviours to be relevant in this case.

The panel took into account that Mr Lewis had previously been a pupil at the school himself and had started teaching at the school as soon as he had finished studying at university.

Therefore, the panel considered that Mr Lewis' circumstances to be significant – the panel was aware that Mr Lewis had limited experience of working in other schools.

The panel was of the view that, in two years' time, Mr Lewis may have the potential to be a more mature, well-trained, mathematics teacher. The panel took into account that in the intervening period, Mr Lewis could seek employment in a different school or education setting (not as a teacher) where he could develop new skills; experience new opportunities within the education sector; and observe how other, more experienced teachers, manage classroom behaviour.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period to take place after two years.

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 also 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 Lewis should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Lewis 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...

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

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

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “the panel considered Mr Lewis to be a continuing risk to pupils; it had not been provided with any evidence to suggest that Mr Lewis’ behaviour would improve, if he was retained as a teacher.” 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, “He had voluntarily decided not to attend the hearing and he had not shown any remorse or insight to the panel for his actions.” In my judgement, the lack of insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future well-being of pupils. I have therefore given this element considerable weight in reaching my decision.

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

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 Lewis. The panel comment “Mr Lewis had a reputation for being a, “*fully committed*” teacher who delivered extra teaching sessions; attended meetings and engaged with his CPD. Witness A also claimed in his oral testimony that Mr Lewis had been, “*collaborative*” and fully engaged during Witness A’s disciplinary investigation. In addition, he praised Mr Lewis for his subject knowledge in mathematics.”

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

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has also said it, “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 Lewis of prohibition.”

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

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a two-year review period.

I have considered the panel’s comments and consider that a two-year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession and is in the public interest.

This means that Mr Joshua Lewis is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. He may apply for the prohibition order to be set aside, but not until 5 March 2022, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Joshua Lewis remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr Joshua Lewis 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.



Decision maker: Alan Meyrick

Date: 27 February 2020

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