



Teaching  
Regulation  
Agency

# **Mr James Elden: Professional conduct panel meeting outcome**

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

**July 2022**

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

<b>Teacher:</b>	Mr James Elden
<b>Teacher ref number:</b>	1542880
<b>Teacher date of birth:</b>	16 December 1992
<b>TRA reference:</b>	19834
<b>Date of determination:</b>	28 July 2022
<b>Former employer:</b>	[redacted] London

### Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 28 July 2022, to consider the case of Mr James Elden (“Mr Elden”).

The panel members were Mr Paul Millett (lay panellist – in the chair), Mr Nigel Shock (lay panellist) and Ms Monique Harlin (teacher panellist).

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

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Elden that the allegations be considered without a hearing. Mr Elden provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Elden or his representative.

The meeting took place in private.

## Allegations

The panel considered the allegations set out in the notice of meeting dated 24 June 2022.

It was alleged that Mr Elden was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as Maths Teacher of [Redacted];

1. He engaged in inappropriate and/or unprofessional behaviour on or around 20 January 2021 by:
  - a. Obtaining and/or storing one or more images of pupils and/or former pupils wearing swimwear;
  - b. Sharing and/or displaying one or more images as described at 1(a) during an online [redacted] Maths lesson;
  - c. Deleting the Teams recording of the [redacted] Maths lesson.
2. He failed to maintain appropriate professional boundaries with Pupils/Former Pupils by:
  - a. Messaging Pupil B [redacted] or words to that effect on Teams;
  - b. Engaging in a romantic and/or sexual relationship with former Pupil C once she had left school;
  - c. Engaging in a private group chat with one or more pupils called [redacted] Updates'
  - d. Contacting current and former pupils on social media;
  - e. Sharing personal information about himself with one or more pupils;
  - f. Instructing and/or encouraging one or more pupils not to inform others about his communication with them.
3. He engaged in inappropriate and/or unprofessional behaviour in that he searched for and/or viewed pornography:
  - a. During the school day and/or teaching hours;
  - b. Whilst simultaneously searching and/or viewing pupils' images on the school's database.
4. His conduct as may be found proven at Allegations 1 (a) and/or 2 (a)-(f) and/or 3 (a)-(b) was conduct of a sexual nature and/or was sexually motivated.
5. His conduct as may be found proven at Allegations 1 (c) and/or 2 (f) was dishonest and/or lacked integrity.

Mr Elden admitted the facts of the allegations and that his conduct amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Notice of Referral and response – pages 2 to 8

Section 2: Statement of agreed facts and presenting officer representations – pages 10 to 18

Section 3: Teaching Regulation Agency documents – pages 19 to 233

Section 4: Teacher documents – pages 235 to 249

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

### **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr Elden on 8 April 2022.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Elden for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mr Elden was employed as a Maths teacher at [Redacted] (“the School”) from 1 September 2016 to 12 February 2021. On 20 January 2021, a pupil disclosed to a teacher that during an online Maths class, Mr Elden had briefly allowed a folder to be visible which contained images of young women, some of whom were in swimwear who were former pupils of the School. The folder was visible for seconds before being quickly taken down by Mr Elden and was seen by 5 of the 17 pupils in the class. It was also disclosed that Mr Elden was inappropriately messaging Pupil B.

On 21 January 2021, the headteacher conducted a meeting with Mr Elden. Mr Elden admitted to inadvertently sharing a folder view of former Pupils some of whom were in swimwear. Mr Elden was suspended pending an investigation.

Mr Elden's conversations on Microsoft Teams were searched, and inappropriate conversations were found with Pupil B and separate conversations with other Pupils. A group called [redacted] Updates' was also discovered.

On 3 February 2021, the headteacher received an anonymous phone call from a former Pupil C who disclosed that there had been a physical and romantic relationship with Mr Elden once she had left School.

A further meeting between the headteacher and Mr Elden took place on 12 February 2021. Mr Elden resigned with immediate effect and apologised for his behaviour.

## **Findings of fact**

The findings of fact are as follows:

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

**1. You engaged in inappropriate and/or unprofessional behaviour on or around 20 January 2021 by:**

**a. Obtaining and/or storing one or more images of pupils and/or former pupils wearing swimwear;**

Mr Elden admitted in the Statement of Agreed Facts that he obtained and stored public domain images of former pupils, some of whom were wearing swimwear. Mr Elden accepted that one image of a pupil who was attending the School at the time was stored in error. The panel found this behaviour to be inappropriate and unprofessional.

The panel found allegation 1(a) proved.

**b. Sharing and/or displaying one or more images as described at 1(a) during an online [redacted] Maths lesson;**

Mr Elden admitted in the Statement of Agreed Facts that one or more images described at 1a were displayed during an online [redacted] Maths lesson.

The panel noted that in the School's interviews with the pupils who had attended the online [redacted] Maths lesson, 5 pupils said that they had seen the image. The panel found this behaviour to be inappropriate and unprofessional. The panel found allegation 1(b) proved.

**2. You failed to maintain appropriate professional boundaries with Pupils/Former Pupils by:**

**a. Messaging Pupil B [redacted] or words to that effect on Teams;**

Mr Elden admitted in the Statement of Agreed Facts that he failed to maintain appropriate professional boundaries with pupils. Mr Elden admitted that at the time he did message Pupil B [redacted] or words to that effect on Microsoft Office Teams.

The panel noted that the School's initial IT investigation revealed an inappropriate conversation with a pupil, particularly where Mr Elden was communicating with her during the holiday period and messages saying he loves Pupil B.

The panel reviewed the screenshots of the Teams messages between Mr Elden and Pupil B. The panel noted that Mr Elden said "I love you the most" in his message to Pupil B.

The panel found allegation 2(a) proved.

#### **b. Engaging in a romantic and/or sexual relationship with former Pupil C once she had left school;**

Mr Elden admitted in the Statement of Agreed Facts that he engaged in a relationship that became romantic with Pupil C once she left the School. Mr Elden states that they kissed on one occasion, following which he terminated the relationship.

The panel had seen notes from a telephone call on 3 February 2021, where former Pupil C disclosed to the headteacher that she had been in a physical and romantic relationship with Mr Elden a few months after she had left School.

The panel found allegation 2(b) proved on the basis that the relationship between Mr Elden and Pupil C was romantic and Mr Elden failed to maintain appropriate and professional boundaries, but the panel did not see any evidence to conclude that the relationship was also sexual.

#### **c. Engaging in a private group chat with one or more pupils called [redacted] Updates'**

Mr Elden admitted in the Statement of Agreed Facts that he engaged in a private group chat with one or more pupils called [redacted] Updates' and he accepted that this was overly familiar and inappropriate.

The panel noted that one pupil described the group as a "circle of trust".

The panel concluded that Mr Elden's conduct failed to maintain appropriate and professional boundaries.

The panel found allegation 2(c) proved.

#### **d. Contacting current and former pupils on social media;**

Mr Elden admitted in the Statement of Agreed Facts that he contacted current and former pupils on social media.

The panel noted that the School's IT investigation found that Mr Elden communicated with a female pupil during the holiday period. The investigation found that Mr Elden had a conversation with a [redacted] pupil.

The panel also noted that a former pupil had stated that Mr Elden had contacted her on “Instagram private message (DMs)”.

The panel found that Mr Elden’s conduct failed to maintain appropriate and professional boundaries.

The panel found allegation 2(d) proved.

**e. Sharing personal information about yourself with one or more pupils;**

Mr Elden admitted in the Statement of Agreed Facts that he shared personal information about himself with one or more pupils.

During the School’s investigation, Mr Elden was asked whether he would discuss his personal relationship with pupils. Mr Elden stated “if they asked about it, I didn’t like lying about it.”

The panel found that Mr Elden’s conduct failed to maintain appropriate and professional boundaries.

The panel found allegation 2(e) proved.

**f. Instructing and/or encouraging one or more pupils not to inform others about your communication with them.**

Mr Elden admitted in the Statement of Agreed Facts that he instructed and/or encouraged on one occasion one or more pupils not to inform others about his communication with them surrounding their possession of a video recording which might be embarrassing to another teacher.

The panel found that Mr Elden’s conduct failed to maintain appropriate and professional boundaries.

The panel found allegation 2(f) proved.

**3. You engaged in inappropriate and/or unprofessional behaviour in that you searched for and/or viewed pornography:**

**a. During the school day and/or teaching hours;**

Mr Elden admitted in the Statement of Agreed Facts that he engaged in inappropriate and/or unprofessional behaviour by searching and/or viewing pornography during the school day/teaching hours during a time when lessons were being conducted remotely. Mr Elden states that this conduct did not occur during actual class teaching and the conduct occurred on his personal computer.

The panel reviewed the IT investigation report which supported the account in the Statement of Agreed Facts.

The panel found Mr Elden’s behaviour to be inappropriate and unprofessional. The



panel found allegation 3(a) proved.

**b. Whilst simultaneously searching and/or viewing pupils' images on the school's database.**

Mr Elden admitted in the Statement of Agreed Facts that whilst searching for / viewing pornography he searched and/or viewed pupil images on the School's database.

The panel reviewed the IT investigation report which supported the account in the Statement of Agreed Facts.

The panel found Mr Elden's behaviour to be inappropriate and unprofessional.

The panel found allegation 3(b) proved.

**4. Your conduct as may be found proven at Allegations 1 (a) and/or 2 (a)-(f) and/or 3 (a)-(b) was conduct of a sexual nature and/or was sexually motivated.**

Mr Elden admitted in the Statement of Agreed Facts that his conduct as may be found proven at allegations 1(a) and/or 2(a)-(f) and/or 3(a)-(b) was conduct of a sexual nature and/or was sexually motivated.

The panel had regard for the legal adviser's advice.

The panel noted that in the case of *Basson v GMC (2018)*, it stated "*the state of a person's mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence*".

It was also stated in this case that a sexual motive means the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

The panel considered the case of *GMC v Haris (2020)*. The panel asked itself whether on the balance of probabilities, reasonable persons would think the words and actions found proven could be sexual.

The panel considered that Mr Elden's conduct in allegations 1(a), 2(a)-(f) and 3(a)-(b) was sexually motivated for the following reasons:

The panel noted that by the very nature of Mr Elden's conduct in obtaining and/or storing one or more images of pupils and/or former pupils wearing swimwear; engaging in inappropriate, personal conversations on Microsoft Teams and on social media; engaging in a romantic and physical relationship with a former Pupil; and viewing pornographic content during the School day was in pursuit of his own sexual gratification. The panel was of the view that his actions would be considered by a reasonable person to be sexually motivated.

In addition, the panel noted that Mr Elden was aware that his conduct was inappropriate as he admitted that when the relationship with Pupil C became physical i.e. when they kissed, Mr Elden told Pupil C that he could not see her again.

The panel found allegation 4 proved.

**5. Your conduct as may be found proven at Allegations 1 (c) and/or 2 (f) was**

## **dishonest and/or lacked integrity.**

The panel did not find allegation 1(c) proven, so considered this allegation solely in respect of allegation 2(f). Mr Elden accepted that his conduct in allegation 2(f) was dishonest and/or lacked integrity in that he instructed/encouraged one or more pupils not to inform another teacher about his communication with them surrounding their making a potentially embarrassing video of that teacher at a staff function.

The panel had regard for the legal adviser's advice when considering an allegation of dishonesty. The panel needed first to ascertain subjectively the actual state of Mr Elden's knowledge or belief as to the facts. Secondly, the panel needed to determine whether Mr Elden's state of mind was honest or dishonest by the application of the objective standards of the ordinary honest person.

The panel firstly turned its mind to the actual state of Mr Elden's knowledge or belief as to the facts. The panel had seen evidence regarding Mr Elden's [redacted] which the panel considered may have affected the state of mind of Mr Elden. Furthermore, the panel found that if ordinary decent people were aware of the full circumstances surrounding Mr Elden's [redacted], then, on the balance of probabilities, his conduct may not have been regarded by the standards of ordinary, decent people to be dishonest.

When considering lack of integrity, the panel recognised that this allegation connotes adherence to the ethical standards of one's own profession that involves more than mere honesty. It is linked to the manner in which the profession should serve the public.

The panel recognised that Mr Elden's actions impacted on the pupils, parents, community, and the School as a whole.

The panel noted Mr Elden's disregard for the significant potential risk to the safeguarding of pupils as a result of his actions. In addition, the panel noted the clear reputational damage to the School.

The panel considered that Mr Elden's behaviour did not adhere to the ethical standards of a teacher and was in contrast to the manner in which the profession should serve the public. The panel therefore found allegation 5 proved by concluding that Mr Elden's conduct in 2(f) lacked integrity but did not find his conduct at 2(f) to be dishonest.

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

- 1. You engaged in inappropriate and/or unprofessional behaviour on or around 20 January 2021 by:**

- c. Deleting the Teams recording of the [redacted] Maths lesson.**

Mr Elden admitted in the Statement of Agreed Facts that he deleted the recording of the [redacted] Maths lesson. In a letter dated 28 April 2021 from Mr Elden's legal representative to the TRA's legal representatives, it stated that Mr Elden "did not delete the recording of the lesson for inappropriate or unprofessional reasons. Instead, he deleted the recording, as it was not appropriate for the classroom and to avoid it being further seen."

The panel had not seen evidence to describe what Mr Elden should have done with the recording of the lesson and therefore, on the balance of probabilities, the panel noted that whilst Mr Elden had deleted the recording, the panel did not find Mr Elden's conduct to be

inappropriate and/or unprofessional as it was not appropriate for the recording to be further seen by pupils.

The panel found allegation 1(c) 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 Elden in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Elden 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 Elden, in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”). The panel considered that Mr Elden was in breach of the following provisions:

- All staff should be aware of systems within their school or college which support safeguarding.
- All staff should have an awareness of safeguarding issues that can put children at risk of harm.

The panel was satisfied that the conduct of Mr Elden in relation to the facts found proved, involved breaches of Working Together to Safeguard Children. The panel considered that Mr Elden was in breach of the following provision:

- Everyone who works with children has a responsibility for keeping them safe.

The panel was satisfied that the conduct of Mr Elden fell significantly short of the standards of behaviour expected of a teacher.

The panel also considered whether Mr Elden's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of sexual communication with a child was relevant.

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

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

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 they behave.

The panel also considered whether Mr Elden's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of sexual communication with a child was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

The panel noted that the advice is not intended to be exhaustive and there may be other behaviours that panels consider to be "conduct that may bring the profession into disrepute". The panel noted that a former pupil stated that Mr Elden's conduct had "broken that trust and understanding. Especially because of the student-teacher relationship."

The panel considered that Mr Elden's conduct could potentially damage the public's perception of a teacher.

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

Having found the facts of particulars 1(a)-(b), 2(a)-(f), 3(a)-(b), 4 and 5 proved, the panel further found that Mr Elden's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

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

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour,

any mitigation offered by Mr Elden and whether a prohibition order is necessary and proportionate. 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 a 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 safeguarding and wellbeing of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Elden, which involved findings of sexual motivation and a lack of integrity, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils given the serious findings of failing to maintain appropriate professional boundaries with pupils and engage in inappropriate and unprofessional behaviour.

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

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 Elden was outside that which could reasonably be tolerated.

The panel noted the lack of evidence to support Mr Elden's ability as an educator. The panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Elden in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

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 Elden.

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 Elden. The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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 education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving vulnerable pupils)

- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE)
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

In the light of the panel's findings, there was evidence that Mr Elden's actions were deliberate. For example, in respect of the finding of sexual motivation, Mr Elden was aware that his conduct was inappropriate. Mr Elden admitted this when the relationship with Pupil C became physical i.e. when they kissed.

There was no evidence to suggest that Mr Elden was acting under extreme duress, e.g. a physical threat or significant intimidation and, in fact, the panel found Mr Elden's actions to be calculated and motivated.

The panel reviewed a reference from his University Dean when Mr Elden was a student teacher, describing Mr Elden as having a "clear understanding of the principles underpinning good behaviour for learning and developed a good rapport with his classes." The panel noted that this reference was given in 2016 and was not contemporaneous evidence.

The panel reviewed an [redacted] dated 12 March 2021. The panel noted that this report was produced after the incidents had taken place and so the panel did not place a great deal of weight on the report.

The panel noted that Mr Elden's legal representatives stated in a representation statement dated 23 February 2022, that Mr Elden expresses "his sorrow and remorse. He accepts the inevitable outcome of this process."

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 was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Elden 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 Elden. Failing to maintain appropriate and professional boundaries with pupils was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons or any sexual misconduct involving a child.

The panel found that Mr Elden was responsible for failing to maintain professional and appropriate boundaries with pupils and his conduct at allegations 1(a), 2(a)-(f) and 3(a)-(b) was conduct that was sexually motivated. The panel noted that Mr Elden's conduct had the potential to result in harm to the pupils given the nature of his conduct, which the panel considered to be premeditated and clearly links to the aforementioned behaviours which recommend no review period. The panel noted the comments from former pupils, such as:

Mr Elden's conduct had "broken that trust and understanding. Especially because of the student-teacher relationship."

When referring to allegation 1(a), a former pupil stated "What shocked me the most was that it was my Maths teacher."

Another former pupil described Mr Elden's conduct as "disturbing and shocking".

The panel expressed their concern for the potential harm that Mr Elden had caused to the lives of the pupils and former pupils involved and the impact that it has had and could still have on the pupils.

The panel noted the lack of mitigating circumstances. Whilst Mr Elden expresses "his sorrow and remorse," the panel noted that there was a lack of insight into his actions. There was no evidence which suggested that Mr Elden was aware of how his conduct could potentially harm the pupils. This affected the panel's view on whether a review period was appropriate because there was nothing to suggest that Mr Elden would not repeat this behaviour again, which deeply concerned the panel.

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

## **Decision and reasons on behalf of the Secretary of State**

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

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

In this case, the panel has found 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 James Elden should be the subject of a prohibition order, with no provision for a review period.

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

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

The panel was satisfied that the conduct of Mr Elden, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE), including:

- All staff should be aware of systems within their school or college which support safeguarding.
- All staff should have an awareness of safeguarding issues that can put children at risk of harm.

The panel was satisfied that the conduct of Mr Elden in relation to the facts found proved, involved breaches of Working Together to Safeguard Children, including:

- Everyone who works with children has a responsibility for keeping them safe.

The panel finds that the conduct of Mr Elden fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include failing to maintain appropriate professional boundaries with pupils, engaging in inappropriate and unprofessional behaviour, sexual motivation and lack of integrity.

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 Elden, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Elden, which involved findings of sexual motivation and a lack of integrity, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils given the serious findings of failing to maintain appropriate professional boundaries with pupils and engage in inappropriate and unprofessional behaviour." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel noted the lack of mitigating circumstances. Whilst Mr Elden expresses *"his sorrow and remorse,"* the panel noted that there was a lack of insight into his actions. There was no evidence which suggested that Mr Elden was aware of how his conduct could potentially harm the pupils. This affected the panel's view on whether a review period was appropriate because there was nothing to suggest that Mr Elden would not repeat this behaviour again, which deeply concerned the panel."

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 wellbeing of pupils'. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that, "public confidence in the profession could be seriously weakened if conduct such as that found against Mr Elden were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of sexual motivated conduct in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order Mr Elden himself and the panel comment *"The panel reviewed a reference from his University Dean when Mr Elden was a student teacher, describing Mr Elden as having a "clear understanding of the principles underpinning good behaviour for learning and developed a good rapport with his classes."* The panel noted that this reference was given in 2016 and was not contemporaneous evidence."

In addition, I have also noted "The panel noted the lack of evidence to support Mr Elden's

ability as an educator. The panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Elden in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he sought to exploit his position of trust.”

A prohibition order would prevent Mr Elden from teaching. A prohibition order 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, “there was evidence that Mr Elden’s actions were deliberate. For example, in respect of the finding of sexual motivation, Mr Elden was aware that his conduct was inappropriate. Mr Elden admitted this when the relationship with Pupil C became physical i.e. when they kissed.”

I have also placed considerable weight on the finding “Mr Elden was responsible for failing to maintain professional and appropriate boundaries with pupils and his conduct at allegations 1(a), 2(a)-(f) and 3(a)-(b) was conduct that was sexually motivated. The panel noted that Mr Elden’s conduct had the potential to result in harm to the pupils given the nature of his conduct, which the panel considered to be premeditated and clearly links to the aforementioned behaviours which recommend no review period. The panel noted the comments from former pupils, such as:

Mr Elden’s conduct had “*broken that trust and understanding. Especially because of the student-teacher relationship.*”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Elden 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 “The panel expressed their concern for the potential harm that Mr Elden had caused to the lives of the pupils and former pupils involved and the impact that it has had and could still have on the pupils.” The panel has also said “the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate in all the circumstances for the prohibition order to be recommended without provision for a review period.”

I have considered whether not allowing a 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, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the case 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 James Elden is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England.** Furthermore, in view of the seriousness of the allegations found proved

against him, I have decided that Mr Elden 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 Elden 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 'SABuxcey', with a horizontal line underneath.

**Decision maker: Sarah Buxcey**

**Date: 1 August 2022**

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