



Teaching
Regulation
Agency

Mr Robert MacCallum: Professional conduct panel outcome

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

November 2022

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

Teacher:	Mr Robert MacCallum
Teacher ref number:	0756219
Teacher date of birth:	29 September 1983
TRA reference:	19590
Date of determination:	8 November 2022
Former employer:	William Hulme’s Grammar School, Manchester

Introduction

A professional conduct panel (‘the panel’) of the Teaching Regulation Agency (‘the TRA’) convened on 2 to 8 November 2022 by way of a virtual hearing, to consider the case of Mr Robert MacCallum.

The panel members were Ms Laura Flynn (teacher panellist – in the chair), Mr David Raff (lay panellist) and Ms Jane Gotschel (teacher panellist).

The legal adviser to the panel was Mrs Samantha Cass of Birketts LLP solicitors.

The presenting officer on behalf of the TRA was Ms Naomh Gallagher of Halycon Chambers.

Mr MacCallum was present and was represented by Mr Rob Young of NASUWT.

The hearing took place by way of a virtual hearing in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 9 August 2022.

It was alleged that Mr MacCallum was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at William Hulme's Grammar School:

1. He engaged in inappropriate professional conduct and/or failed to maintain appropriate boundaries in that:
 - a) During Former Pupil A's time at the School, between [REDACTED], he:
 - i. engaged in frequent 1:1 contact with Former Pupil A;
 - ii. gave Former Pupil A gifts;
 - iii. gave Former Pupil A cards;
 - iv. gave Former Pupil A money so that [REDACTED] could purchase a bus ticket;
 - v. said words to the effect of 'I know our relationship is inappropriate but I can help you and/or I just care about you so much and/or I adore you and/or I just feel like I need to be here for you and/or we have a connection';
 - b) In or around [REDACTED], whilst on a School trip to [REDACTED] he:
 - i. purchased and/or provided [REDACTED] to Former Pupil A;
 - ii. engaged in inappropriate physical contact with Former Pupil A by holding [REDACTED] hand;
 - c) On or around [REDACTED] he:
 - i. attended a 'night out' with Former Pupil A;
 - ii. kissed Former Pupil A;
 - iii. arranged a hotel room for yourself and Former Pupil A;
 - iv. engaged in sexual intercourse with Former Pupil A;
2. On or around [REDACTED], he was dishonest and/or deliberately misled Individual A in that he made the following statements to him when he knew them to be untrue:

- a) He did not have any 'affair' or inappropriate relationship with Former Pupil A;
 - b) He 'bumped into' Former Pupil A in a bar [REDACTED] while he was with his friends in a chance meeting;
 - c) He did not have Former Pupil A's phone number and had not made contact with Former Pupil A by text.
3. On one or more occasions between [REDACTED], he failed to inform Individual A:
- a) About the full extent of his relationship with Former Pupil A; and/or
 - b) About the details of the event that occurred on [REDACTED];
 - c) That he had spoken to Former Pupil A on or around [REDACTED] for approximately 1 hour and 30 minutes;
 - d) That he had contacted Former Pupil A by text message on one or more occasions.

Mr MacCallum admitted allegations 1(a)(iii) (to the extent that he had sent one card), 1(c)(ii), 1(c)(iii), 2(c), 3(b), 3(c) and 3(d). Although previously he had admitted 3(a) he sought to change his answer to not admitted for this allegation. Mr MacCallum denied that the admitted allegations amounted to unprofessional conduct and/or conduct that may bring the profession into disrepute. Mr MacCallum denied allegations 1(a)(i), 1(a)(ii), 1(a)(iv), 1(a)(v), 1(b)(i), 1(b)(ii), 1(c)(i), 1(c)(iv), 2(a), 2(b) and now 3(a).

Preliminary applications

There were no preliminary applications.

Shortly after Pupil A started giving [REDACTED] evidence, the Panel briefly adjourned and convened to discuss whether or not the hearing should be adjourned to enable Pupil A to put in place the witness support which had been arranged as a special measure at a case management hearing on 9 September 2022.

Pupil A confirmed that [REDACTED] wanted to continue without witness support and that [REDACTED] was fully aware of [REDACTED] ability to call witness support for the PCPH. The Panel advised [REDACTED] to seriously consider arranging witness support for [REDACTED] cross-examination to which Pupil A confirmed that [REDACTED] had someone who [REDACTED] could call for this if [REDACTED] needed to but that [REDACTED] preference was to continue with the hearing.

Summary of evidence

Documents

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

- Section 1: Chronology and anonymised pupil list – pages 6 to 9
- Section 2: Notice of referral/proceedings – pages 11 to 26
- Section 3: TRA witness statements – pages 28 to 106
- Section 4: TRA documents – pages 108 to 303
- Section 5: Teacher documents – pages 305 to 318

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

Witnesses

The panel heard oral evidence from the following witnesses called by the TRA:

- Pupil A, former student
- Pupil B, former student
- Individual A [REDACTED]
- Individual B [REDACTED]

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 MacCallum commenced employment at William Hulme's Grammar School ('the School') as a teacher of PE and head of Year 12 on 1 September 2008.

On [REDACTED], the School received a third-party complaint from [REDACTED], Pupil B, who raised concerns about the appropriateness of Mr MacCallum's relationship with Pupil A as they were alleged to have engaged in sexual activity.

The School reported the complaint to the LADO who concluded that there was no reason to doubt Mr MacCallum when he said that he met Pupil A by accident whilst they were both out [REDACTED] and that there was nothing further to it. The LADO's view was that, whilst possibly inappropriate, the meeting was not illegal.

On [REDACTED], Individual B, took a call from former Pupil A who was [REDACTED] of age. Pupil A said that [REDACTED] and Mr MacCallum did have a consensual relationship earlier in [REDACTED] and that [REDACTED] friends had pressured [REDACTED] to tell the School. Pupil A described [REDACTED] relationship with Mr MacCallum as “*creating a situation of [REDACTED] dependency*” during [REDACTED] time as a pupil at the School.

Individual A, called the LADO for advice. The LADO’s view was that this course of conduct was not illegal and they advised Individual A to speak to Mr MacCallum about professional conduct and the expectations of the School, which the School did.

On [REDACTED], Pupil A contacted the School to speak to Individual A. Following a meeting, [REDACTED] then sent a written complaint to the School. The complaint included allegations of inappropriate behaviour of Mr MacCallum towards Pupil A between [REDACTED].

In [REDACTED], the School again contacted the LADO and commenced an internal investigation. The allegations raised further questions which also formed part of the internal investigation, which related to previous management guidance that Mr MacCallum received and signed in [REDACTED]. The LADO’s advice was to reinforce professional standards to Mr MacCallum and stated, “*Although not illegal, it feels uncomfortable*”.

A disciplinary hearing was held on 16 October 2020. On 19 October 2020 it was agreed that Mr MacCallum’s employment at the School would be terminated by mutual consent on 31 October 2020.

The School referred the matter to the TRA on 21 October 2020.

Findings of fact

The findings of fact are as follows:

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

1. You engaged in inappropriate professional conduct and/or failed to maintain appropriate boundaries in that:

a) During Former Pupil A’s time at the School, between [REDACTED], you

- i. engaged in frequent 1:1 contact with Former Pupil A;**
- ii. gave Former Pupil A gifts;**
- iii. gave Former Pupil A cards;**

- iv. **gave Former Pupil A money so that [REDACTED] could purchase a bus ticket;**
- v. **said words to the effect of ‘I know our relationship is inappropriate but I can help you and/or I just care about you so much and/or I adore you and/or I just feel like I need to be here for you and/or we have a connection’;**

The panel noted Mr MacCallum’s statement, in which he denied that there was evidence that he treated Pupil A differently from other students and the claims that he had repeatedly bought [REDACTED] gifts, including [REDACTED]. Mr MacCallum denied that he had ever told Pupil A their relationship was inappropriate, that they were friends, or made any efforts to create a dependency. Mr MacCallum stated that other staff members were available to support [REDACTED].

The panel noted the witness statement and oral evidence of Pupil A. Pupil A explained that whilst [REDACTED] was a pupil at the School [REDACTED].

Pupil A explained that the School were quite accommodating to [REDACTED] needs in terms of giving [REDACTED] places to go if [REDACTED] did not want to be in a lesson. After the summer of [REDACTED], [REDACTED] recommended a phased return to school which the School accommodated. Mr MacCallum was Pupil A’s head of year throughout the time [REDACTED] attended the School and Pupil A engaged in frequent 1:1 contact with Mr MacCallum towards the end of [REDACTED], which then continued throughout [REDACTED].

Pupil A explained that the 1:1 contact with Mr MacCallum would take place during Mr MacCallum’s free periods as this would give them enough time to have a long conversation. Mr MacCallum would also often go into Pupil A’s lesson and say to the teacher “*can I have a word with [Pupil A]?*”, and they would then go to Mr MacCallum’s office, the PE office, an empty classroom or just walk around the field/campus. Pupil A explained that they did not necessarily go anywhere private; the rooms would have windows and they could be seen by others.

Pupil A’s timetable was amended in order to support [REDACTED]. Mr MacCallum arranged with the [REDACTED], that instead of attending lessons, Pupil A would instead meet with Mr MacCallum and would do [REDACTED] work in [REDACTED] own time. Pupil A explained that there were classes that [REDACTED] liked and [REDACTED] enjoyed sitting with [REDACTED] friends, and although it was not [REDACTED] decision to amend [REDACTED] timetable, [REDACTED] liked being with Mr MacCallum so went along with the changes.

Pupil A could not remember much of what [REDACTED] spoke about with Mr MacCallum, as [REDACTED] had tried to block a lot of the memories out. Pupil A

submitted that they would mostly speak about [REDACTED], but sometimes they would speak about him, [REDACTED] as he was trying to help [REDACTED] and provide guidance. Pupil A expressed that Mr MacCallum would make [REDACTED] feel valued and cared for as he was paying attention to how [REDACTED] felt. At times, Pupil A would also stay after school if [REDACTED] and Mr MacCallum would ensure [REDACTED] got home safely, either by providing [REDACTED] with a bus fare or giving [REDACTED] a lift home, although that would be with another staff member present.

Pupil A explained that [REDACTED] misbehaved at school, but other staff members often left disciplinary conversations to Mr MacCallum as it was accepted that he was [REDACTED] “*guardian*”; Mr MacCallum would often fight [REDACTED] corner against other staff members and protect [REDACTED] from consequences. Pupil A recalled once occasion where MacCallum said “*I just want to wrap you up in bubble wrap and protect you*”.

Pupil A submitted that [REDACTED] and Mr MacCallum developed an affection for each other and became very close. Mr MacCallum told Pupil A how he cared about [REDACTED], he sometimes got butterflies when he thought about [REDACTED] and would lie awake at night worrying about [REDACTED]. Pupil A stated that Mr MacCallum acknowledged that their relationship was not appropriate but reassured Pupil A that he just wanted to help [REDACTED]. Pupil A submitted that Mr MacCallum would say things to the effect of “*I know our relationship is inappropriate, but I just care about you so much*” and “*we have a connection*”.

Further, Pupil A submitted that Mr MacCallum would give [REDACTED] cards and gifts, lend [REDACTED] books, or buy [REDACTED] small things to make [REDACTED] feel better, for example, chocolates or a bottle of juice or [REDACTED] because he wanted [REDACTED] to [REDACTED]. Pupil A stated that Mr MacCallum told [REDACTED] not to tell anyone about the gifts, although [REDACTED] stated that [REDACTED] had told [REDACTED] close friends.

With regard to allegations 1(a)(i)-(iii) the panel found that, Mr MacCallum had engaged in frequent 1-2-1 contact and given the occasional card and/or gifts.

However, the panel found that the evidence from Individual A and Individual B did not suggest that these actions amounted to inappropriate professional conduct and that they did not cross any professional boundaries. Further, the panel found that these actions could be justified by Mr MacCallum’s role as Pupil A’s Head of Year.

With regard to allegations 1(a)(iv) and (v) the panel were not satisfied that there was sufficient evidence to substantiate these.

Accordingly, the panel found allegations 1(a)(i)-(v) not proven.

1b) In or around [REDACTED], whilst on a School trip to [REDACTED] you:

- i. purchased and/or provided [REDACTED] to Former Pupil A;**
- ii. engaged in inappropriate physical contact with Former Pupil A by holding [REDACTED] hand;**

Mr MacCallum denied that he sat with Pupil A during journeys on the trip in [REDACTED]. Mr MacCallum explained that he and some of his colleagues spoke to Pupil A to check [REDACTED] was alright, which involved sitting on the empty seat next to [REDACTED] for 5-10 minutes, but certainly not during the overnight part of the journey.

Mr MacCallum explained that he had to accompany Pupil A to the hospital in [REDACTED]. Whilst Mr MacCallum accepted that Pupil A was distressed, he stated that any notion of holding [REDACTED] hand or being in the room when [REDACTED] was treated is simply not true. Mr MacCallum informed the EPOC 'Emergency Point of Contact' that he had to take one of the students to hospital but that this was in relation to nothing serious, just [REDACTED].

Pupil A submitted that [REDACTED] attended this trip as Mr MacCallum pleaded with [REDACTED] for months to sign up. On the journey, Pupil A explained that [REDACTED] spent considerable time sat with Mr MacCallum and on one occasion, he allowed [REDACTED] to fall asleep on his shoulder.

As Pupil A and Mr MacCallum had been spending a lot of time together before the [REDACTED] trip and having a lot of conversations, this continued on the [REDACTED] trip, however, the only time privacy was possible was later on in the day. As part of Mr MacCallum's role, Mr MacCallum kept [REDACTED] so Pupil A stated that [REDACTED] would have to see him before bed every evening in order to have [REDACTED]. Pupil A recalled that [REDACTED] would have chats either sat on the stairs in the hotel or sat on a bench outside of the hotel whilst [REDACTED].

On the [REDACTED] trip, Pupil A explained that [REDACTED] was involved in an accident where [REDACTED] injured [REDACTED]. Pupil A was taken to the hospital and was accompanied by Mr MacCallum, rather than [REDACTED] member of staff. Pupil A said that Mr MacCallum had held [REDACTED] hand whilst in the ambulance and was present when [REDACTED] had [REDACTED] leggings cut off. For the rest of the trip, Pupil A was unable to participate [REDACTED], and spent most of [REDACTED] time in the café. Further, [REDACTED] stated that Mr MacCallum would give [REDACTED] his coat to wear, buy [REDACTED] food and on one occasion bought [REDACTED], which had been agreed previously as Mr MacCallum had encouraged [REDACTED] to [REDACTED].

Following Pupil A's injury, Mr MacCallum called Individual C on his personal mobile to make her aware of [REDACTED] injury; Pupil A took Mr MacCallum's mobile number

from Individual C's phone. Pupil A explained that on the drive back from [REDACTED], Mr MacCallum moved [REDACTED] to sit with him during the night because the pupils were being noisy at the back. Pupil A stated that it was at this point that [REDACTED] started to feel uncomfortable about the relationship and how close they were becoming. Shortly after the [REDACTED] trip, Pupil A left the School, although Mr MacCallum tried to talk [REDACTED] out of doing so.

The panel found that there was insufficient evidence to support allegation 1(b)(i).

In relation to allegation 1(b)(ii) the panel were not satisfied that, during [REDACTED] treatment, (both in the context of the hospital and within the ambulance setting), Mr MacCallum would have had the opportunity to engage in inappropriate physical contact in the manner alleged.

Accordingly, the panel found allegations 1(b)(i)-(ii) not proven.

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

1c) On or around [REDACTED] you:

- i. attended a 'night out' with Former Pupil A;**
- ii. kissed Former Pupil A;**
- iii. arranged a hotel room for yourself and Former Pupil A;**
- iv. engaged in sexual intercourse with Former Pupil A;**

Mr MacCallum admitted allegations 1(c)(ii) and (iii).

The panel noted that Mr MacCallum denied having an "*affair*" or indeed an "*inappropriate relationship*" with Pupil A over any period of time, during [REDACTED] time at the School or the years that followed. Mr MacCallum submitted that he had not seen Pupil A for nearly [REDACTED] when this incident occurred, at which point [REDACTED] was [REDACTED], and this was not part of a prolonged affair or inappropriate relationship over time. Mr MacCallum explained that he had been out drinking with some friends [REDACTED]; he had not arranged to meet Pupil A and assumed that [REDACTED] became aware of his whereabouts when he had seen and spoken to some male former students.

In [REDACTED], Pupil A [REDACTED]. Pupil A explained that [REDACTED] went out with Mr MacCallum "*a handful of times*", for example, they went to bars for drinks. Pupil A stated that this was initiated by [REDACTED] saying "*let's go out for a drink*". However, Pupil A stated that, when [REDACTED] was in school, Mr MacCallum had said that, once

[REDACTED] they would go for a drink and therefore, as soon as [REDACTED] wanted to go for a drink with Mr MacCallum.

Pupil A submitted that Mr MacCallum would always insist on paying for [REDACTED] drinks and they would stay out late until the bars would close. [REDACTED], Pupil B, did not want [REDACTED] to go, but [REDACTED] had no reason not to trust that Mr MacCallum was just being friendly. Pupil A stated that Mr MacCallum would give [REDACTED] a hug and a kiss goodbye on the forehead at the end of the night, and [REDACTED] always felt safe when [REDACTED] was out with him.

On [REDACTED], Pupil A stated that Mr MacCallum and Pupil A had agreed to meet for drinks [REDACTED]. Pupil A explained that things felt normal for the majority of the night and they met with some of [REDACTED] friends. One of Pupil A's friends expressed their concerns about [REDACTED] being out with Mr MacCallum and told Pupil A "*to get out of here*". Pupil A told [REDACTED] friends they were being ridiculous. Towards the end of the night, Pupil A stated that Mr MacCallum had told [REDACTED] that [REDACTED] was pretty and had then kissed [REDACTED]. Pupil A explained that this took [REDACTED] by surprise, but Mr MacCallum knew that [REDACTED] would not turn him down. Pupil A stated that it was always a possibility, or a fantasy, that this would happen, but [REDACTED] thought that Mr MacCallum was professional and would not do that.

Pupil A explained that, after kissing, there was some discussion about where they would go. Pupil A stated that Mr MacCallum suggested going to Pupil A's house but [REDACTED] were there this was not an option. [REDACTED] maintained that Mr MacCallum then wanted to take [REDACTED] to his house, but [REDACTED] felt uncomfortable about this because of Individual D even though she was away at the time. Therefore, [REDACTED] said that Mr MacCallum had suggested a hotel which he paid for and they stayed at the [REDACTED]. Pupil A took a picture of the hotel room, approximately 10 minutes after arriving which is timestamped at 03:25am, which was submitted as part of the bundle.

Pupil A submitted that it became apparent that they were going to have sex and that they did indeed engage twice in sexual intercourse and then went to sleep. Pupil A remembered that Mr MacCallum kept saying "*You're so naughty.*" Pupil A stated that [REDACTED] remembered being very drunk and disorientated.

When Pupil A woke up the next morning, Mr MacCallum was awake and said he could not be there. Pupil A was aware that Individual D was away and not due back till the following day, so was asking why he had to leave. Pupil A explained that [REDACTED] did not know what to do. Pupil A did not expect that they would get together and be in a relationship, but [REDACTED] did not expect to be a one night stand; Pupil A thought Mr MacCallum cared about [REDACTED].

The panel considered Mr MacCallum's evidence in which he stated that he had met Pupil A by chance on the night of [REDACTED]. The panel considered Mr MacCallum's speculation that this was because Pupil A had become aware of his whereabouts as a result of Mr MacCallum having had his picture taken with some other former pupils when he came across them in a bar earlier in the evening. Mr MacCallum stated that he believed this photograph could have been posted to social media for Pupil A to see which could have then revealed his whereabouts that evening. Mr MacCallum denied that this was therefore a prearranged meet up, however, the panel considered that, irrespective of the way in which Mr MacCallum and Pupil A had come across each other that evening, Mr MacCallum had stayed in a bar with Pupil A, had drinks with [REDACTED] alone and, as such, had therefore attended a night out with [REDACTED].

With regard to allegation 1(c)(iv) the panel considered Mr MacCallum's denial that the parties had engaged in sexual intercourse in the hotel. However, the panel considered that, the parties were more likely than not to have engaged in sexual intercourse in the manner alleged in Pupil A's evidence. The panel found Mr MacCallum's evidence that he had remained at the hotel until the morning without engaging in any sexual activity with Pupil A somewhat implausible. The panel considered that Pupil A did not have a motivation to lie about this allegation and, in fact, it was more damaging for Pupil A to later disclose this to the School especially given [REDACTED] at the time. Pupil A's evidence on this point was consistent and measured. Therefore, the panel considered that, on the balance of probabilities, Pupil A's evidence was more credible.

In light of the findings above, the panel disagreed with Mr MacCallum's view that his actions on [REDACTED] were merely "*inadvisable*" as opposed to constituting inappropriate professional conduct involving a former Pupil A [REDACTED] of which he was aware.

The panel found allegations 1(c)(i)-(iv) proven.

2. On or around [REDACTED], you were dishonest and/or deliberately misled Individual A in that you made the following statements to him when you knew them to be untrue:

- a) You did not have any 'affair' or inappropriate relationship with Former Pupil A;**
- b) You 'bumped into' Former Pupil A in a bar [REDACTED] while you were out with your friends in a chance meeting;**
- c) You did not have Former Pupil A's phone number and had not made contact with Former Pupil A by text.**

Mr MacCallum admitted allegation 2(c).

Individual A said that, following the written complaint from Pupil B, the School contacted the LADO. The LADO advised that Mr MacCallum be spoken to and that Pupil A should not be contacted at this stage as the only evidence was hearsay. Individual A subsequently spoke to Mr MacCallum who was adamant that there was nothing to the complaint and stated that he did not have Pupil A's mobile number and that the only contact he had with [REDACTED] following [REDACTED] leaving the School was when he bumped into [REDACTED] in a bar [REDACTED] and had a conversation with Pupil A.

The panel considered Individual A's evidence that in their meeting on [REDACTED] Mr MacCallum denied having had an affair or an inappropriate relationship with Pupil A, claimed that he had met [REDACTED] by chance [REDACTED] and denied having had [REDACTED] phone number or having been in contact with [REDACTED] by text. The panel also considered the message screenshot which showed clearly that Mr MacCallum was communicating with Pupil A on [REDACTED] and indeed thanked Pupil A for suggesting an inaccurate version of events.

Furthermore, in the evidence provided there was a clear admission during the investigation meeting on [REDACTED] by Mr MacCallum that he did regret having "*not been totally open*" with Individual A and that he did "*keep important facts from [Individual A]*" which he did regret.

The panel found that, based on its previous finding in allegation 1(c) above, Mr MacCallum had had an inappropriate relationship with Pupil A and had dishonestly misled Individual A by denying it. The panel further found that the meeting in the bar [REDACTED] had been prearranged and that he had not merely "*bumped into*" Pupil A and accordingly he had dishonestly misled Individual A about the circumstances of that meeting.

The panel found allegations 2(a), 2(b) and 2(c) proven.

3. On one or more occasions between [REDACTED], you failed to inform Individual A:

- a) About the full extent of your relationship with Former Pupil A; and/or**
- b) About the details of the event that occurred on [REDACTED];**
- c) That you had spoken to Former Pupil A on or around [REDACTED] for approximately 1 hour and 30 minutes;**
- d) That you had contacted Former Pupil A by text message on one or more occasions.**

Mr MacCallum admitted allegations 3(b), (c) and (d).

The panel considered Individual A's evidence that on three occasions between [REDACTED], Mr MacCallum had misled and denied the full extent of the relationship with Pupil A. In light of the panel's findings on allegation 1(c), the panel found that there had been a relationship between Pupil A of which Mr MacCallum had failed to inform Individual A.

On [REDACTED], Individual A met with Mr MacCallum to discuss boundaries and professional conduct and in this meeting, he went through the guidelines for safer working practices document. Individual A put this in writing for Mr MacCallum to review and a subsequent meeting took place on [REDACTED] where they discussed the guidance. Mr MacCallum signed the document, confirming he was aware of what was required.

Mr MacCallum made no further disclosures to Individual A at any point about his relationship with Pupil A and continued to deny the allegations, despite being given the opportunity to provide a full account on [REDACTED].

The panel found allegations 3(a), 3(b), 3(c) and 3(d) proven.

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 (1(c)(i)-(iv), 2 and 3) 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 MacCallum, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr MacCallum 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel concluded that Mr MacCallum had continued a relationship outside school with a former pupil whom he had mentored and whom he knew [REDACTED] and with whom he was in a position of trust, had had sexual intercourse with this former pupil and had then acted dishonestly when confronted with the facts of what he had done. In light of this, the panel was satisfied that the conduct of Mr MacCallum amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Whilst the panel noted that some of the allegations related to conduct with a former pupil, Mr MacCallum's lack of integrity and dishonesty did in fact take place within the education setting in the context of his meetings with Individual A.

The panel also considered whether Mr MacCallum's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The panel found that none of these offences was relevant.

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

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

The panel took note of the responses of Pupil B, [REDACTED] Individual E and Individual A in relation to the proven allegations. The panel also took into account the public perception and concluded that Mr MacCallum's conduct fell significantly short of that expected of a teacher who is responsible for the safeguarding and welfare of pupils.

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

Having found the facts of allegations 1(c)(i)-(iv), 2 and 3 proved, the panel further found that Mr MacCallum's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr MacCallum namely that he engaged in an unprofessional relationship with a former pupil 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 MacCallum was 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 MacCallum 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 MacCallum.

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 MacCallum. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk (although see paragraph below for the panel's assessment of this particular point);
- abuse of position or trust (particularly involving 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;
- 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; and
- collusion or concealment including:
 - any activity that involves knowingly substantiating another person's statements where they are known to be false;
 - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions;
 - encouraging others to break rules;
 - lying to prevent the identification of wrongdoing.

The panel noted that, although there was a finding of the above behaviour: "*misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk*", the panel did not consider that there was a continuing risk in the circumstances. However, the panel did consider that Mr MacCallum's behaviour was inappropriate misconduct which did affect the wellbeing of Pupil A.

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.

There was no evidence that Mr MacCallum's actions were not deliberate.

There was no evidence to suggest that MacCallum was acting under extreme duress.

The panel considered evidence which demonstrates that Mr MacCallum has contributed significantly to the education sector in respect of his current role at [REDACTED] and the impact that he has had since taking up this post as Education Director effectively growing this provision from scratch. In particular, the panel noted a number of character references submitted on behalf of Mr MacCallum. The panel noted the following comments:

- Individual F [REDACTED]:

- *“During the 18 months that Robert has held the role, he has demonstrated leadership qualities, management skills and humility in what can be a very challenged environment.”*
- *“I have personally found him trustworthy, and to demonstrate integrity, and see a clear pathway to a further leadership role within the club as the educational academy continues to grow.”*
- Individual G [REDACTED]:
 - *“I wish to make it abundantly clear that there is no more dedicated, professional, empathetic and caring practitioner than Rob. The welfare and well-being of students in his charge is of paramount importance to him and underpins his life in the School.”*
- Individual H [REDACTED]:
 - *“Rob was a very respected member of staff and very popular with his peers – he was always professional with other staff, very approachable and went out of his way to make sure he was available to staff who may have needed guidance or help.”*
- Individual D [REDACTED]:
 - *“However, I have been able to forgive Bob, we have moved on together, and I trust his version of events related to this case entirely. I do not believe that he was engaged in an ongoing relationship with the complainant at any stage and I never had any concerns from the time period when the complainant was at the school where he worked.”*

Mr MacCallum accepted that the incident in [REDACTED] and his subsequent dishonesty in his dealings with Individual A were matters of considerable regret. His dishonesty resulted from fear of the potential consequences of facing up to the foolish position he had put himself in and, in particular, the risk of very serious damage to his long-term personal relationship. Mr MacCallum stated that he has repeatedly expressed his regret at not being entirely open and forthcoming.

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 MacCallum 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 MacCallum. The extent of the list of proven behaviours and the insufficient insight that was shown by Mr MacCallum, particularly in relation to the impact that they had and/or could continue to have on a vulnerable person were significant factors in forming this opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weight in favour of a longer review period. The panel found that Mr MacCallum was not responsible for any such behaviours.

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. The panel considered that a period of two years would give Mr MacCallum time to reflect on the impact of his conduct on former Pupil A and [REDACTED] ongoing perception of people in a position of trust. In the circumstances, the panel recommend a review period of two years from the date on which the order takes effect.

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, and have set these out in detail. I have therefore put all of those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr MacCallum should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr MacCallum 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The findings of misconduct are particularly serious as they include, "that Mr MacCallum had continued a relationship outside school with a former pupil whom he had mentored and whom he knew [REDACTED] and with whom he was in a position of trust, had had sexual intercourse with this former pupil and had then acted dishonestly when confronted with the facts of what he had done."

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 MacCallum, 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, "However, the panel did consider that Mr MacCallum's behaviour was inappropriate misconduct which did affect the wellbeing of Pupil A." 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 extent of the list of proven behaviours and the insufficient insight that was shown by Mr MacCallum, particularly in relation to the impact that they had and/or could continue to have on a vulnerable person were significant factors in forming this opinion." 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, "The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel took note of the responses of Pupil B, [REDACTED] Individual E and Individual A in relation to the proven allegations. The panel also took into account the public perception and concluded that Mr MacCallum's conduct fell significantly short of that expected of a teacher who is responsible for the safeguarding and welfare of pupils."

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

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

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

I have also considered the impact of a prohibition order on Mr MacCallum himself. The panel comment "The panel considered evidence which demonstrates that Mr MacCallum has contributed significantly to the education sector in respect of his current role at [REDACTED] and the impact that he has had since taking up this post as Education Director effectively growing this provision from scratch. In particular, the panel noted a number of character references submitted on behalf of Mr MacCallum."

A prohibition order would prevent Mr MacCallum 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, "The extent of the list of proven behaviours and the insufficient insight that was shown by Mr MacCallum, particularly in relation to the impact that they had and/or could continue to have on a vulnerable person were significant factors in forming this opinion."

I have also placed considerable weight on the panel's own observations that, "Pupil A described [REDACTED] relationship with Mr MacCallum as "*creating a situation of [REDACTED] dependency*" during [REDACTED] time as a pupil at the School," and, "in relation to the impact that they had and/or could continue to have on a vulnerable person."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr MacCallum 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 a 2 year review period.

I have considered the panel's comments "The panel considered that a period of two years would give Mr MacCallum time to reflect on the impact of his conduct on former Pupil A and [REDACTED] ongoing perception of people in a position of trust. In the circumstances, the panel recommend a review period of two years from the date on which the order takes effect."

I have considered whether a 2 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. In this case, I do not agree. In my view the panel has not placed sufficient weight on the specific and close relationship that Mr MacCallum had with the pupil and the vulnerability of that pupil. Although there was a gap between the departure of the pupil from school and the events being considered here, in my view that vulnerability and dependency has not been given sufficient weight. Coupled with the lack of full insight I believe that Mr MacCallum will require a longer period to fully reflect on his behaviour and the impact that it had on a vulnerable person.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Robert MacCallum 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 17 November 2027, 5 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 Robert MacCallum remains prohibited from teaching indefinitely.

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

Mr Robert MacCallum has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

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

Decision maker: Alan Meyrick

Date: 11 November 2022

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