



Teaching
Regulation
Agency

Mrs Elaine Housley: Professional conduct panel outcome

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

November 2019

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

Teacher: Mrs Elaine Housley
Teacher ref number: 0320007
Teacher date of birth: 24 January 1958
TRA reference: 17296
Date of determination: 6 November 2019
Former employer: Old Hall School, Walsall

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4 November 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mrs Elaine Housley.

The panel members were Mr Chris Rushton (lay panellist), Mr Melvyn Kershaw (former teacher panellist – in the chair) and Mrs Fiona Tankard (teacher panellist).

The legal adviser to the panel was Mr James Danks of Blake Morgan LLP.

The presenting officer for the TRA was Ms Kayleigh Brooks of Browne Jacobson LLP.

Mrs Housley was not present and was not represented.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 1st July 2019.

It was alleged that Mrs Elaine Housley was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed and/or engaged as a Teacher at Old Hall School, Walsall:

1. she engaged in inappropriate and/or unprofessional behaviour in relation to one or more pupils on one or more occasions between October 2016 and March 2017, including by;

- a. hitting and/or slapping Pupil A on his leg(s) in response to him throwing food on the floor;
- b. pulling Pupil A up and/or back by the hood of his coat;
- c. putting Pupil A's hand/fist into his mouth after he had tried to bite her;
- d. pushing Pupil A in the back;
- e. using Pupil C and/or Pupil D's arms to wipe up water they had spilt;
- f. hitting Pupil B on the head with part of a blind;
- g. taking Pupil A's hand/arm and using it to hit Pupil C on the shoulder/upper arm;
- h. rubbing alcohol gel into a cut on Pupil C's face;
- i. making comments such a:
 - i. calling Pupil A "lazy" and/or a "big baby";
 - ii. "I'd beat him black and blue if he was mine, I would have a wooden paddle for him", or words to that effect, in response to Pupil G refusing to eat;
 - iii. "I want her to fall to the floor", or words to the effect, when she noticed Pupil C leaning back on a chair/stool;
 - iv. "Put your legs under the table before I break them", or words to that effect, when Pupil H would not sit down.

Mrs Housley denied all of the allegations and, therefore, that her behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

The panel considered an application from Ms Brooks to proceed in the absence of Mrs Housley.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice of Proceedings ("the Notice") had been sent in accordance with Rules 4.11 and 4.12 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession ("the Procedures") and that the requirements for service had been satisfied.

Mrs Housley was clearly aware of the hearing and responded to the Notice by virtue of her witness statement dated 4th October 2019. In addition, the panel had sight of an email from Mrs Housley's representative confirming that Ms Housley would not be waiving her right to attend the hearing and requested that the hearing proceed in her absence.

The panel went on to consider whether to proceed in Mrs Housley's absence or to adjourn, in accordance with Rule 4.29 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel has given careful consideration to the fact that Mrs Housley is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to her as a consequence.

On balance, the panel has decided that the hearing should continue in the absence of Mrs Housley for the following reasons:

- Mrs Housley has not sought an adjournment and there is no medical evidence before the panel, which indicated that she was unfit to attend the hearing due to ill health.
- The panel was satisfied that Mrs Housley's absence was voluntary and she had waived her right to attend.
- The medical evidence that had been provided by Mr Housley from her GP states [REDACTED] she "...feels once hearing is over things will improve." There was therefore an interest to Mrs Housley for the hearing to be completed expeditiously.

- The risk of reaching the wrong conclusion and the disadvantage to Mrs Housley in not being present are mitigated by the fact that she has provided a detailed witness statement.
- There is a public interest in hearings taking place within a reasonable time.
- There are witnesses present to give evidence to the panel who would be significantly inconvenienced were the hearing to be adjourned.

Having decided that it is appropriate to proceed, the panel will strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mrs Housley is not present or represented.

At the conclusion of the TRA's case, the panel also heard an application from Ms Brooks to amend allegation 1e to properly reflect the evidence. Due to a typographical error, Pupil A rather than Pupil D had been included within the charge. Ms Brooks explained that Mrs Housley had clearly understood the subject of the charge against her as her witness statement responded as if Pupil D had been properly included in the charge. Ms Brooks had sought Mrs Housley's agreement to this amendment but a response, at the time of the application, was outstanding.

The panel determined no prejudice to Mrs Housley by the amendment being made and it was in the interests of justice for the charges to reflect the evidence. It therefore allowed Ms Brooks's application. For clarity, Ms Brooks later confirmed to the panel that she had received correspondence from Mrs Housley's representative confirming that there was no objection to the amendment being allowed.

D. 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 2 to 3

Section 2: Notice of Proceedings and Response – pages 5 to 11

Section 3: Teaching Regulation Agency witness statements – pages 13 to 48

Section 4: Teaching Regulation Agency documents – pages 50 to 159

Section 5: Teacher documents – pages 161 to 178

In addition, the panel agreed to accept the following:

- An email from Mrs Housley's representative dated 24 October 2019 (page 179); and
- GP notes of Mrs Housley (pages 180 to 181).

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

Witnesses

The panel heard oral evidence from:

- Witness A, [REDACTED] at the School;
- Witness B, [REDACTED] at the School;
- Witness C, [REDACTED] at the School;
- Witness D, [REDACTED] at the School.

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

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

Mrs Housley had been employed as a teacher at Old Hall School, Walsall ('the School'), initially as a supply teacher from September 2015, and then on a full-time basis from January 2016. The School provides an education for pupils with complex needs, mainly with profound and multiple learning difficulties.

In March 2017, concerns were raised to the School by [REDACTED] regarding Mrs Housley's conduct with pupils over a period of time. As a result, Mrs Housley, [REDACTED], were suspended pending an inquiry.

A disciplinary hearing took place on 6 February 2018, which determined that Mrs Housley's conduct amounted to gross misconduct and she was summarily dismissed from her role at the School.

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 in relation to one or more pupils on one or more occasions between October 2016 and March 2017, including by;

a. hitting and/or slapping Pupil A on his leg(s) in response to him throwing food on the floor

The panel heard live evidence on this allegation from Witness A, [REDACTED].

Witness A explained that on a Wednesday in February 2017, she was in the classroom with Mrs Housley and heard a 'slapping noise', which caused her to turn around. As she did so, Mrs Housley said, in a manner that Witness A described as 'defensive', *"I meant to move his legs but slapped him by accident"*. Witness A stated that Mrs Housley was attending to Pupil A, who was likely wearing jogging bottoms, when she heard the noise and she noticed that there was a piece of orange on the floor. Witness A confirmed in evidence that Pupil A had a habit of throwing food around and that Mrs Housley had little patience with Pupil A.

Witness A told Mrs Housley that Mrs Housley needed to report the incident to the School's Safeguarding Officer. At some point soon after the incident, Witness A checked Pupil A's legs, which had no marks on them, and the event did not appear to have caused Pupil A any immediate distress.

In live evidence, Witness A described Mrs Housley's immediate reaction to the incident as 'being over the top' and 'if there was nothing to defend, there was no need to react that way'.

Whilst the panel did not have the benefit of hearing live evidence from Mrs Housley, it did note the contents of her witness statement dated 4th October 2019 ('the Statement'). Mrs Housley denied this allegation although did accept making contact with Pupil A's legs when she tried to move his chair to maintain the safety of a pupil sat next to him.

In an earlier version of events given to the School, Mrs Housley's version of events differed slightly from that of her Statement, in that she had previously explained moving Pupil A's leg, which had led to the slapping sound.

In the panel's view, Witness A gave evidence in a clear and consistent manner on the facts that she could recall. When she was unsure on an issue, she was willing to state

that to the panel, and, on occasion, compliment Mrs Housley. There appeared to be no benefit to Witness A from fabricating this event and she had attended to give live evidence and expose herself to questioning on an event about which she had been criticised by the School, due to her lack of reporting.

The panel did note that there was no witness who saw the actual act. However, the panel found Mrs Housley's account of the incident lacked clarity to explain how her actions could have caused a 'slapping sound', had it been an accident.

For the reasons given, the panel preferred the TRA's evidence over that of Mrs Housley and therefore found this allegation proved.

c. putting Pupil A's hand/fist into his mouth after he had tried to bite you

The panel heard live evidence on this matter from Witness C, [REDACTED].

Witness C, [REDACTED], described a poor working relationship with Mrs Housley although she said she herself remained professional. From the start of Witness C's time at the School, she felt that Mrs Housley had 'mocked' her. Witness C felt that Mrs Housley had targeted her anxiety as a 'weakness' and threatened that she would make her do tasks, such as speaking out loud in team meetings, when she knew this would cause Witness C anxiety.

Witness C had concerns about Mrs Housley's management style with the children from an early part of her employment at the School and had begun to take notes on her mobile phone about what she witnessed Mrs Housley doing, as and when incidents occurred.

Witness C thought that incidents that caused her concern began in or around October but that she probably only began making her notes in November / December 2016.

Witness C explained to the panel that Pupil A would often move his head down, with his mouth open, towards a teacher or TA, as if to bite them, in order to gain a reaction. On 24 March 2017, an incident took place between Pupil A and Mrs Housley, which Witness C described as 'vile'.

Witness C stated that Pupil A had gone to bite Mrs Housley, who had reacted by taking Pupil A's hand and making it into a fist before forcing it towards his mouth. Mrs Housley had said words to the effect of "*...you bite yourself, you don't bite me.*"

Whilst Witness C could not recall if any injury had been caused to Pupil A, she thought it likely that he could have bitten himself as a result.

Witness C explained to the panel that she was so shocked by what she had witnessed, when she got home, she was in tears. She said that it was this incident, over and above any other, which had convinced her that Mrs Housley needed to be reported for her actions, which she did on 31 March 2017.

The panel had the benefit of the notes made during the interview on 31 March 2017 conducted by the School with Witness C. Witness C explained that, whilst she no longer had the notes from her phone, during this interview, she did have them available and had read them out. The note was an accurate record of her telephone record and the panel noted the reference to this incident was consistent with Witness C's account before it.

The panel also heard live evidence on this matter from Witness B, [REDACTED]. Witness B, who was considerably more experienced than Witness C, described an incident when Mrs Housley, who was holding Pupil A's hand at the time, had avoided Pupil A's biting her by moving her hand away. This, in turn, may have caused part of Pupil A's hand or arm to be moved towards his mouth.

Within Mrs Housley's Statement, she denied this allegation. Whilst she accepted an incident had taken place, she explained that Pupil A had taken her hand with his hand to her mouth. She explicitly denied forcibly putting Pupil A's hand in his mouth.

In the panel's view, Witness C gave evidence in an unambiguous manner, clearly in a manner to assist the panel. She was adamant about her account of the incident and was able to clearly explain why it had had such an effect on her and why she could remember it so clearly. In addition, the panel had the benefit of the interview notes, which had been produced relatively soon after the incident and were based on a near contemporaneous record of the event by Witness C.

Whilst the panel noted Witness B's account differed from that of Witness C, the panel was not convinced that both were referring to the same incident as Pupil A appeared to move his mouth towards an arm, as described by both live witnesses, on regular occasions.

The panel was satisfied that Witness C's clear account of events, given in live evidence, was, on balance, the more likely version of how the incident had taken place when compared to Mrs Housley's written version.

The panel found this allegation proved.

d. pushing Pupil A in the back

The panel heard live evidence on this allegation from Witness C who described a definite, two-handed push by Mrs Housley on Pupil A.

Witness C demonstrated the push to the panel, which appeared forceful and with purpose. Witness C was steadfast in her position that it was a deliberate act and not something that had been misinterpreted by her.

Mrs Housley explained in her Statement that she could not recollect any specific incident, but it was possible that she had been guiding Pupil A with her hand on his back and he

had then stumbled. This may have created the incorrect impression that Mrs Housley had pushed him.

In the panel's view, Witness C was clear in her recollection of the event, including demonstrating the two-handed push that she witnessed. There appeared no reason for her to fabricate such an incident taking place and the panel preferred her live evidence over that of Mrs Housley's Statement.

The panel found this allegation proved.

e. using Pupil C and/or Pupil D's arms to wipe up water they had spilt

Witness C gave live evidence on this allegation, which she witnessed first-hand. She explained that, on two separate occasions, Pupils C and D had deliberately spilt water on the table and Mrs Housley had reacted by taking their clothed arms and using them to mop up the water. Witness C was adamant as to what she had witnessed.

Witness C was particularly concerned about this incident for Pupil D, who had an aversion to water due to his autism. She said that were he to get any water onto his clothes, he would go 'berserk' and have to strip off the clothes. Witness C did accept, however, that she could not remember what reaction Pupil D (or Pupil C) had to the event.

Pupil D's extreme reaction to water was corroborated by the evidence from Witness A and Witness B. Witness B said that Pupil D's phobia was so great that if they were crying and a tear went onto their top, they would go 'ballistic' and strip.

Mrs Housley denied this allegation and explained in her Statement that Pupil D's aversion to water was exactly why she would not have acted as described by Witness C.

For the reasons given previously, the panel determined Witness C to be a credible witness who gave evidence in a clear and consistent manner. It preferred her live evidence over that of Mrs Housley and accepted Witness C's account of events.

The panel found this allegation proved.

f. hitting Pupil B on the head with part of a blind

The panel heard live evidence on this matter from Witness A. She explained that she was in the classroom with Mrs Housley and Pupil B, who was playing with the blind by pulling it up and down.

Witness A explained that she heard Mrs Housley telling Pupil B to '*stop it*' and she looked round. As she did so, she saw Mrs Housley hitting Pupil B on the head with the bottom of the blind, which had a strip of plastic running along it. Mrs Housley then said words to the

effect of *"I've just hit him on the head three times, he won't do that again"*. There was no evidence of any harm to Pupil B.

Witness A's account was corroborated, to some extent, by Witness C. Whilst Witness C had not seen the incident, she had been in the classroom and heard hitting noises. She also overheard Mrs Housley say words to the effect of *"...a few hits on the head won't hurt him."*

Mrs Housley accepted that there had been an incident involving Pupil B and the blind in the classroom but denied any of her actions had been inappropriate. Mrs Housley explained that Pupil B had been playing with the blind and she had wound it back up only for Pupil B to pull it down again. She was unaware that the blind had hit Pupil B at all.

Witness A was clear in her recollection of what she witnessed and, of importance, what Mrs Housley had said to her. In the panel's view, the only reason for Mrs Housley to make such a comment was if she had deliberately hit Pupil B on the head albeit the evidence appeared to indicate these were more taps than forceful hits.

The panel preferred the live evidence of the TRA to that of Mrs Housley's Statement and therefore found this allegation proved.

g. taking Pupil A's hand/arm and using it to hit Pupil C on the shoulder/upper arm

Witness C gave live evidence on this matter. She explained that Pupil C had been hitting Pupil A, which had been seen by Mrs Housley who had responded by taking Pupil A's arm and using it to hit Pupil C.

Witness C was less certain in her recollection of the mechanics of this incident, compared to other events, but did remember that Mrs Housley acted in a forceful manner.

Witness B also gave live evidence on this matter. Initially, she thought it was Pupil C's arm being used to hit Pupil A but, during evidence, accepted that it may have been the other way around. Witness B's recollection, such as it was, was that the act was more of a tap rather than any force being used by Mrs Housley.

Mrs Housley denied this allegation and said that an act of her stopping the two children from hitting each other may have been misinterpreted.

In the panel's view, whilst not as clear in her recollection as to the precise details of the incident, Witness C was sufficiently clear in her evidence that the event had taken place. This, on balance, was enough to persuade the panel that the incident had occurred and that Witness C's account, albeit limited, was accurate.

The panel found this allegation proved.

i. making comments such as:

- i. calling Pupil A "lazy" and/or a "big baby"**
- iii. "I want her to fall to the floor", or words to the effect, when you noticed Pupil C leaning back on a chair/stool**
- iv. "Put your legs under the table before I break them", or words to that effect, when Pupil H would not sit down.**

Witness C gave direct evidence on these three comments. In respect of particulars (i) and (iii), these had been said directly to her and she had noted these comments in her phone (as reproduced in the notes of interview). Witness C said that she was quite clear on the words and she had not misheard, incorrectly remembered the comments or fabricated her evidence.

With regard to particular (iv), Witness C stated that she saw Mrs Housley standing over Pupil H, when he was in his chair, and said the comment to him in a raised voice, which she clearly heard.

Mrs Housley explicitly denied making all three comments and could not explain why Witness C would make up this evidence.

The panel considered Witness C to be clear in her recollection of the comments, which were corroborated by the notes she made closer to the relevant time. On this basis, the panel preferred her evidence over that of Mrs Housley.

The panel therefore found these three sub-particulars of the allegation proved.

For clarity, the panel determined that all of the particulars found proved were actions that were both inappropriate and unprofessional.

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

1. You engaged in inappropriate and/or unprofessional behaviour in relation to one or more pupils on one or more occasions between October 2016 and March 2017, including by;

b. pulling Pupil A up and/or back by the hood of his coat

The panel heard live evidence on this allegation from Witness B.

Witness B explained that during a trip to Aldridge Airport ('the Airport'), Pupil A was laying down on the floor and would not move. At the time, Pupil A had his coat on.

Witness B described Mrs Housley asking Pupil A to move from the floor, in order to join the remainder of the pupils who were also present. When Pupil A refused to do so,

Witness B explained that Mrs Housley had picked Pupil A by the hood of his jacket, *"pulled him upwards and along to where the activity was taking place"*.

Witness B estimated that Pupil A would have been five or six stone at the time and Mrs Housley's actions would have caused the zipper from his jacket to dig into Pupil A's neck and throat.

Witness B stated in live evidence that she was so shocked by what she witnessed, she turned to Witness A, whom she said was sitting directly next to her, and they exchanged horrified looks. Also present was a member of the Airport staff, who had looked equally appalled by Mrs Housley's actions.

Witness B explained that Mrs Housley consistently handled Pupil A in a rough manner but what she had witnessed at the Airport was far in excess of normal. Generally, Mrs Housley had little patience with the pupil and, in turn, Pupil A would 'play up' with her.

However, in evidence, Witness A adamantly denied ever witnessing such an incident at the Airport and confirmed it would be something that she would recall had she seen it.

The panel noted that in Witness B's written statement, she referred to speaking to Witness A and Witness C about the incident when back at the School. She stated that this discussion had prompted Witness A and Witness C to raise the concerns that they had. However, this was contrary to Witness B's live evidence as to Witness A being present and witnessing the incident. In addition, the panel also noted that, in live evidence, Witness A and Witness C had said it was the 'blind incident' that had prompted their reporting of Mrs Housley to the School.

The panel noted that the incident was described by Witness B as one involving some force. However, no mark had been left on Pupil A despite his coat's zip being pressed into his neck.

The panel accepted that Witness B had seen an incident at the Airport involving Pupil A and Mrs Housley. However, in the light of the inconsistencies in Witness B's own evidence, the fact that there was no mark on Pupil A and that Witness A, an integral part of Witness B's description, had no memory of the event, the panel was concerned Witness B may have exaggerated or misremembered the incident.

On balance, the panel was not sufficiently convinced that the incident had taken place as Witness B described and did not, therefore, find the allegation proved.

h. rubbing alcohol gel into a cut on Pupil C's face

The panel heard live evidence on this allegation from Witness C. She stated that Pupil C had been picking at a cut on her face and that Mrs Housley had used alcohol gel and rubbed it aggressively into Pupil C's face and hands, saying "this will stop you".

However, Witness C could not confirm whether the gel contained alcohol. Whilst she assumed that it did, she was unable to provide any evidence on this point. Similarly, Witness A assumed that the hand gel contained alcohol but, as she suffered from eczema, did not use the gel so could not confirm this.

Mrs Housley accepted putting gel onto Pupil C's hand but denied that the gel contained alcohol. She explained that this was a strategy in place at the School for Pupil C to give her a sensory distraction. Neither Witness C nor Witness A accepted in evidence that there was such a strategy in place for using gel with Pupil C.

At the start of its deliberation, the panel determined that there was no evidence, other than assumption, that the gel contained alcohol. As this was an essential part of the allegation, the panel therefore determined it was not proved and did not consider it necessary to consider anything further.

i. making comments such as:

- ii. "I'd beat him black and blue if he was mine, I would have a wooden paddle for him", or words to that effect, in response to Pupil G refusing to eat.**

Witness C gave live evidence on this particular and explained that Mrs Housley had muttered the comment to Witness A, under her breath, whilst sitting at a large round table with pupils, including Pupil G.

Witness C confirmed that she was sitting opposite Mrs Housley, who was next to Witness A. Witness A, however, had no recollection of any such comment being made to her and said that she would have recalled it if it had.

On the basis of the TRA's witnesses both giving clear, but contradictory accounts, the panel was not satisfied that the TRA had discharged its evidential burden to prove its case and did not find this allegation proved.

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

Having found a number of the allegations proven, the panel went on to consider whether the facts of those 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 Mrs Housley, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that by reference to Part Two, Mrs Housley was in breach of the following standards:

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

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

Whilst there was no evidence of any substantial physical harm being caused to any pupil by Mrs Housley's actions, her conduct did involve inappropriate physical contact with vulnerable pupils, or making unacceptable comments to, or about, them over a lengthy period of time.

The panel was therefore satisfied, for each particular of proven particular of allegation 1, that the conduct of Mrs Housley amounted to misconduct of a serious nature, which fell significantly short of the standards expected of the profession. The panel therefore considered that Mrs Housley's actions 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/conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

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

In the light of the panel's findings against Mrs Housley, which involved her inappropriate and unprofessional use of force against a number of children in her class, there was a strong public interest consideration in respect of the protection of pupils. Similarly, in the light of repeated and inappropriate comments made against three pupils, public confidence in the profession could be seriously weakened if conduct such as that found against Mrs Housley were not treated with the utmost seriousness when regulating the conduct of the profession.

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

The panel decided that there was a strong public interest consideration in retaining Mrs Housley in the profession, since no doubt had been cast upon her abilities as an educator and she was able to make a valuable contribution to the profession. The panel noted the references from previous colleagues of Mrs Housley contained within the bundle. These indicated that she was a 'good' teacher, which was corroborated by the live evidence of Witness D, the School's Headteacher at the time. Witness D would send new teachers to observe Mrs Housley's class to observe her behaviour management.

In view of the clear public interest considerations that were present, the panel considered carefully whether it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mrs Housley.

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 Mrs Housley. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils;

- ...deliberate behaviour that undermines pupils, the profession, the school...

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

In the light of the panel's findings, Mrs Housley's actions could only be determined to be deliberate and there was no evidence that she was acting under duress. However, the panel did appreciate that she had a previously good record of some length.

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, the recommendation of no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in the case would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for the teacher of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs Housley. Ensuring the safety of pupils in the care of Mrs Housley was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period but the panel determined that none was present.

In the panel's view, whilst the actions of Mrs Housley were undoubtedly inappropriate and inherently serious, they were also incidents towards the lower end of the seriousness spectrum that involved minimal contact with pupils. There was no evidence that any long-term physical harm had been caused to pupils although the panel did appreciate there was the potential for there to be an impact on the pupils' mental health. It appeared to the panel that the class of pupils were more difficult to manage than Mrs Housley had previously experienced and, before the academic year 2016/2017, there was no evidence of any complaints against her. Further, Witness A, who had worked with Mrs

Housley on a near daily basis for the 2015/2016 academic year, confirmed that she had no concerns during that period.

Mrs Housley had not demonstrated any remorse nor any insight into her actions. Nevertheless, in the light of her complete denial of all allegations, the panel did not consider this to be unexpected and, therefore, did not consider this to be to the detriment of Mrs Housley.

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 after two years.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has 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 Mrs Elaine Housley should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mrs Housley is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position;
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions;
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

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

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 Mrs Housley, and the impact that will have on her, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, “Whilst there was no evidence of any substantial physical harm being caused to any pupil by Mrs Housley's actions, her conduct did involve inappropriate physical contact with vulnerable pupils, or making unacceptable comments to, or about, them over a lengthy period of time.”

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, “Mrs Housley had not demonstrated any remorse nor any insight into her actions. Nevertheless, in the light of her complete denial of all allegations, the panel did not consider this to be unexpected and, therefore, did not consider this to be to the detriment of Mrs Housley.”

In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future well-being of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that Mrs Housley's behaviour amounted to, “conduct that may bring the profession into disrepute.”

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 Mrs Housley herself. The panel say, “no doubt had been cast upon her abilities as an educator and she was able to make a valuable contribution to the profession. The panel noted the references from previous colleagues of Mrs Housley contained within the bundle. These indicated that she was a 'good' teacher, which was corroborated by the live evidence of Witness D, the School's Headteacher at the time. Witness D would send new teachers to observe Mrs Housley's class to observe her behaviour management.”

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. The panel has also said that it, “was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mrs Housley. Ensuring the safety of pupils in the care of Mrs Housley was a significant factor in forming that opinion.”

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

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

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2 year review period.

I have considered the panel's comments, “whilst the actions of Mrs Housley were undoubtedly inappropriate and inherently serious, they were also incidents towards the lower end of the seriousness spectrum that involved minimal contact with pupils. There was no evidence that any long-term physical harm had been caused to pupils although the panel did appreciate there was the potential for there to be an impact on the pupils' mental health. It appeared to the panel that the class of pupils were more difficult to manage than Mrs Housley had previously experienced and, before the academic year 2016/2017, there was no evidence of any complaints against her. Further, Witness A,

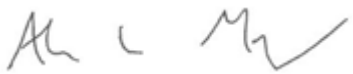
who had worked with Mrs Housley on a near daily basis for the 2015/2016 academic year, confirmed that she had no concerns during that period.”

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. I consider that it does.

This means that Mrs Elaine Housley is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children’s home in England. She may apply for the prohibition order to be set aside, but not until 2021, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mrs Elaine Housley remains prohibited from teaching indefinitely.

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

Mrs Elaine Housley has a right of appeal to the Queen’s Bench Division of the High Court within 28 days from the date she 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: 12 November 2019

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