



Teaching
Regulation
Agency

Mr David Coleman: Professional conduct panel outcome

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

September 2022

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

Teacher: Mr David Coleman

TRA reference: 0019207

Date of determination: 13 to 16 September 2022

Former employer: Leigh Academy, Kent

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 13 to 16 September 2022 to consider the case of Mr David Coleman.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mr Clive Ruddle (lay panellist) and Mrs Jane Gotschel (teacher panellist).

The legal adviser to the panel was Mr Delme Griffiths of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr David Collins of Capsticks LLP solicitors.

Mr Coleman was present and was represented Ms Wendy Hewitt of St Andrew's Hill Chambers, instructed by Richard Nelson LLP.

The hearing took place in public and was recorded, with the exception of a limited part of Mr Coleman's evidence which was heard in private insofar as private health matters were addressed.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 15 June 2022.

It was alleged that Mr Coleman was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst a teacher at the Leigh Academy:

1. Between July 2018 and November 2019
 - a. on one or more occasions in dealings with Pupil B and/or Pupil C and/or Pupil D:
 - i. called pupils 'beautiful' and/or 'gorgeous' or words to that effect;
 - ii. stated 'bye, love you' or words to that effect;
 - iii. stated 'hello gorgeous' and/or 'hello beautiful' or words to that effect;
 - iv. winked at pupils;
 - v. looked a pupil 'up and down'.
 - b. in or around September 2019, in dealings with Pupil E, he:
 - i. told Pupil E she was 'pretty' or words to that effect;
 - ii. gave Pupil E a chocolate bar;
 - c. recorded video footage of pupils and/or played the video footage in class without consent.
2. On or after March 2019, on social media, he
 - a. 'followed':
 - i. Pupil A;
 - ii. Pupil E;
 - iii. Pupil H.
 - b. reacted to:
 - i. a photograph posted by Pupil A with a 'fire' emoji;

- ii. a photograph posted by Pupil E by 'liking' the photograph;
- c. permitted one or more pupils to follow his social media account.

3. His conduct at 1 and/or 2 above:

- a. failed to observe a proper boundary appropriate to a teacher's professional position;
- b. failed to adhere to management advice issued on or around 13 March 2019;

4. His conduct at 1 a. and/or 1 b. and/or 2 above was sexually motivated in that it was in pursuit of sexual gratification and/or a future sexual relationship.

Mr Coleman admitted the facts of allegations 1(a)(i) to (iv), 1(b), 1(c), 2(a), 2(c), 3(a) and 3(b).

The remaining allegations were denied.

Mr Coleman also denied that his conduct, in any respect, amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary application

An application was made by the TRA to discontinue allegation 1(a)(v).

The application was supported by Mr Coleman.

The basis for the application was the absence of Pupil C, a witness who had been scheduled to give evidence to the panel.

The panel was informed that Pupil C was no longer cooperating with the TRA. She was the only witness who would be able to provide direct evidence in relation to this specific allegation.

On behalf of the TRA, it was accordingly submitted that no evidence would be called in relation to the allegation and it should be discontinued.

First, it was jointly submitted that an adjournment, to allow Pupil C to give evidence at a later stage, was not appropriate in the specific circumstances of this case.

The panel agreed. The allegation concerned events that took place some time ago. These proceedings had already been subject to an adjournment. A further adjournment would be unfair to Mr Coleman and would be contrary to the interests of justice.

Secondly, it was also submitted, on behalf of the TRA, that it was not appropriate for Pupil C's evidence, insofar as it was directed at this allegation, to be admitted as hearsay evidence.

The panel agreed. It was the sole and decisive evidence in relation to this allegation. The panel was satisfied, on balance, that in the absence of hearing from Pupil C, it could not be said that her hearsay evidence, in relation to this allegation, was demonstrably reliable and there was no other means of testing its reliability.

In these circumstances, the panel was not satisfied that the prejudice to Mr Coleman could be adequately addressed by assessing the weight to be attached to Pupil C's hearsay evidence.

The position was different in relation to Pupil C's evidence insofar as it was relevant to other allegations. No objection was raised on behalf of Mr Coleman in that regard. It was not the sole or decisive evidence in relation to those matters and the panel was satisfied that any prejudice to Mr Coleman could be addressed by assessing weight, having in mind that these allegations were largely admitted.

The panel, therefore, accepted the application and concluded that the interests of justice and fairness required this allegation to be discontinued.

Whilst the panel had regard to the wider public interest in ensuring that allegations are fully and properly determined, it concluded that this was appropriate in the interests of justice and fairness. As a consequence, Pupil C's evidence in relation to this allegation would also be excluded insofar as it may also be relevant to allegation 4.

The panel accordingly directs that allegation 1(a)(v) be discontinued.

Summary of evidence

Documents

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 6

Section 2: Notice of proceedings and response – pages 7 to 14

Section 3: Teaching Regulation Agency witness statements – pages 15 to 28

Section 4: Teaching Regulation Agency documents – pages 29 to 245

Section 5: Teacher documents – pages 246 to 283

In addition, the panel was provided with separate bundles submitted on behalf of Mr Coleman, entitled 'first defence bundle' (pages 1 to 58) and 'second defence bundle' (pages 1 to 27) respectively.

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

Witnesses

The panel heard oral evidence from [redacted], HR people partner for Leigh Academies Trust, who was called by the presenting officer.

In addition, Mr Coleman gave evidence to the panel.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Introduction

Mr Coleman was previously employed as a science teacher at the Leigh Academy ("the School"). He commenced employment at the School in 2017.

Mr Coleman was referred to the TRA, by the School, on 3 March 2020 following his resignation. The relevant chronology of events is as follows.

On or around 13 March 2019, Mr Coleman was provided with management advice by the School. This addressed his communications with students and use of social media, following concerns about his behaviour with two pupils, Pupil A and Pupil E.

In November 2019, further concerns were brought to the attention of the School in relation to Mr Coleman's conduct in relation to Pupil A and Pupil C.

As a consequence, on 20 November 2019, an initial meeting was held with Mr Coleman to address what were deemed to be safeguarding issues.

On 25 November 2019, the School decided to commence an investigation, which concluded on 10 December 2019.

On 28 January 2020, Mr Coleman resigned from his position at the School. Notwithstanding this, the School continued a disciplinary process which culminated in a disciplinary hearing. Whilst Mr Coleman was invited to attend and participate in that hearing, he did not do so.

Evidence considered by the panel

The panel carefully considered all of the written and oral evidence presented and the submissions made. It accepted the legal advice provided.

The panel heard oral evidence from [redacted], HR people partner for the School, who was called by the presenting officer

The panel was also presented with a signed witness statement from Pupil C, a former pupil at the School.

Pupil C had been scheduled to give evidence. However, the panel was notified that she had recently ceased cooperating with the TRA, for reasons which were unclear.

Further to the panel's determination in relation to a preliminary application put before it, Pupil C's evidence was excluded insofar as it concerned allegation 1(a)(v).

The remainder of Pupil C's evidence, together with other hearsay accounts, including from other pupils spoken to during the course of the School's investigation, was relied upon by the TRA.

The panel was satisfied that the admission of this evidence did not give rise to any unfairness in the specific circumstances of this case.

Nonetheless, the hearsay evidence presented was considered with appropriate caution. If and where it was relied upon, this is addressed in the panel's reasons, below.

Mr Coleman attended the hearing and gave evidence to the panel. He was represented by counsel.

Mr Coleman admitted allegations 1(a)(i) to (iv), 1(b)(i) and (ii), 1(c), 2(a)(i) to (iii), 2(c), 3(a) and 3(b).

The remaining allegations were denied.

Mr Coleman also denied that his conduct, in any respect, amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

The panel confirmed it has not relied upon any findings made, or opinions expressed, during the earlier investigation process or subsequently.

It formed its own, independent view of the allegations based on the evidence presented to it.

In addition, there were references within the evidence to other alleged failings on the part of Mr Coleman, including to the matters that led to advice being provided in early 2019. This formed part of the factual matrix to this case.

Other than where evidence was relevant to a specific allegation or was relevant contextually, it was disregarded.

Findings of fact

The findings of fact are as follows:

1. Between July 2018 and November 2019

a. on one or more occasions in dealings with Pupil B and/or Pupil C and/or Pupil D:

i. called pupils 'beautiful' and/or 'gorgeous' or words to that effect;

Mr Coleman admitted the facts of allegation 1(a)(i).

He accepted calling the pupils identified by these terms and set out his position in terms of the context in which this was said to have occurred.

In summary, Mr Coleman stated that whilst he used these terms, he did not do so as a term of endearment. Nonetheless, he accepted that the use of such words was inappropriate in his role as a teacher.

Mr Coleman's admission was consistent with the other evidence before the panel, particularly the accounts of Pupil C, Pupil D and Pupil J.

Allegation 1(a)(i) was therefore found proved.

ii. stated 'bye, love you' or words to that effect;

Mr Coleman admitted the facts of allegation 1(a)(ii).

He accepted that he used such words, on one or more occasions, in his dealings with these pupils.

Once again, Mr Coleman's position was that there was a specific context, namely the friendly and informal manner of his communications. On reflection, he accepted this was inappropriate.

Based on Mr Coleman's admission, which was consistent with the other evidence before the panel, allegation 1(a)(ii) was found proved.

iii. stated 'hello gorgeous' and/or 'hello beautiful' or words to that effect;

Mr Coleman admitted the facts of allegation 1(a)(iii).

Similar to allegation 1(a)(i), Mr Coleman accepted that whilst he used these terms, in relation to these pupils, they were not intended as terms of endearment. His position was that:

- They were phrases he used when greeting pupils.
- They were only intended to make him appear friendly and cover the fact that he did not always remember all pupils' names.
- It was not his intention to cause discomfort.
- He now appreciated that such comments were not appropriate in his role as a teacher.

On the basis of Mr Coleman's admission, which was consistent with the other evidence before the panel, allegation 1(a)(iii) was found proved.

iv. winked at pupils;

Mr Coleman admitted the facts of allegation 1(a)(iv).

Mr Coleman asserted this was an aspect of what was described as his "*friendly, informal, ways of interacting with students*". He asserted there was nothing sinister in terms of this behaviour.

Mr Coleman further stated:

- This was never intended to make any student feel uncomfortable or uneasy.
- It occurred in the context of his intention to generate some humour and a relaxed atmosphere in his classes.

On the basis of Mr Coleman's admission, which was consistent with the other evidence before the panel, allegation 1(a)(iv) was found proved.

v. looked a pupil 'up and down'.

Allegation 1(a)(v) was discontinued further to the panel's preliminary determination.

b. in or around September 2019, in dealings with Pupil E, you:

i. told Pupil E she was 'pretty' or words to that effect;

Mr Coleman admitted the facts of allegation 1(b)(i).

The panel was presented with an account from Pupil E, taken during the School's investigation, in which she addressed an occasion when Mr Coleman referred to her as 'pretty'. For the sake of completeness, this records that Pupil E perceived that this was not said "*in a creepy way*".

Mr Coleman stated:

"At the time, I am sorry to admit that, I did not realise that this could or would cause offence or upset and I was devastated to learn of this. I only ever intended such a comment as an innocent compliment to help boost Pupil E's self-esteem. I am grateful that Pupil E confirmed that she did not feel uncomfortable or take this comment in a way other than it was intended."

Mr Coleman went on to state that he now recognised that his behaviour was not appropriate.

On the basis of Mr Coleman's admission, which was consistent with Pupil E's account, allegation 1(b)(i) was found proved.

ii. gave Pupil E a chocolate bar;

Mr Coleman admitted the facts of allegation 1(b)(ii).

Pupil E's account, as reported to the School, was that Mr Coleman bought her a chocolate bar for performing well in an examination, commenting that he did not do so for any other pupil.

Mr Coleman accepted that he gave Pupil E a chocolate bar, but not that this was specifically bought for her. His position was that:

- It was his practice to have a drawer of chocolate and other sweet treats that he gave out to pupils on occasion as a positive reinforcement for good work, effort and/or behaviour.
- He never singled out Pupil E, or any other pupil.
- He never purchased a chocolate bar specifically for a pupil.

Based on Mr Coleman's admission, which was consistent with the other evidence before the panel, allegation 1(b)(ii) was found proved.

c. recorded video footage of pupils and/or played the video footage in class without consent.

Mr Coleman admitted the facts of allegation 1(c).

There was, accordingly, no dispute that Mr Coleman recorded footage of pupils and played it in class and that he did so without express consent.

His position was that he:

- Recorded this footage when pupils were testing the use of 'VR goggles'.
- Did so as he wanted to be able to demonstrate the effect that wearing these goggles had on their behaviour.
- Recorded some of the pupils in a science lesson as well as some of his tutor group on a webcam, which was connected via USB to a school laptop.
- Had volunteered as a digital champion and was asked to provide evidence of best practice, recording this footage with the intention of providing it as such.
- Did not specifically warn the pupils that he was going to record them or seek their consent for this, but it was in no way covert and he thought the pupils involved were aware of him doing so.
- Understood that as he was recording them, for internal use within the School, at the request of another member of staff, the pupils' explicit consent was not required.
- Showed the recording to his tutor group, before the allegation was raised, and as such it was not something he kept secret.

Based on Mr Coleman's admission, which was consistent with the other evidence before the panel, allegation 1(c) was found proved.

2. On or after March 2019, on social media, you

a. 'followed':

- i. Pupil A;**
- ii. Pupil E;**
- iii. Pupil H.**

Mr Coleman accepted that he followed each of these pupils on social media. There was clear and unchallenged evidence before the panel to that effect.

Allegations 2(a)(i) to (iii) were therefore found proved.

- b. reacted to:**
 - i. a photograph posted by Pupil A with a 'fire' emoji;**
 - ii. a photograph posted by Pupil E by 'liking' the photograph;**

Mr Coleman denied allegations 2(b)(i) and (ii), which the panel considered together.

There was no dispute that, in response to the posting of these photographs, by Pupil A and Pupil E, there were reactions, deriving from Mr Coleman's social media account, by way of a 'fire' emoji and a 'like' respectively.

At the time, Pupil E was a pupil of the School. Pupil A was a former pupil.

The panel was presented with relevant screenshots in which these photographs and the reactions were captured.

Over and above this, the TRA referred to the responses provided by Mr Coleman to questions asked of him about this matter during the discussion held on 20 November 2019 and the investigation meeting on 4 December 2019.

These were relied upon as, in effect, an acceptance by Mr Coleman, when these matters were first put to him, that he was responsible for the reactions. In particular, Mr Coleman did not suggest, at that point in time, that anyone else may have been responsible. Records of these meetings were included in evidence and carefully considered by the panel.

Mr Coleman denied these allegations. He now claimed his account was hacked or accessed, at the pertinent time, and these reactions were posted by an unknown third party.

Mr Coleman stated that, having been alerted to these posts in the November meeting, he decided to investigate logins to his social media. Having done so, he discovered his account had been accessed and used by one or more third parties, without his knowledge or consent.

To support this proposition, Mr Coleman provided various screenshots. He relied upon these as demonstrating there were occasions when this unknown third party or parties logged into his account, from a location different to his own, and reacted to and/or commented on certain photographs or posts.

Having carefully considered the evidence before it, the panel was not persuaded by Mr Coleman's purported explanation. Indeed, it regarded his evidence as evasive in relation to this specific issue.

The panel proceeded from the starting point that, given there was no dispute that these reactions derived from Mr Coleman's account, it was more likely than not that he was personally responsible for them.

Whilst the panel was mindful that the burden of proof was upon the TRA, it considered that was an obvious presumption, which was not countered or undermined, in the circumstances of this case, by clear and cogent evidence.

Indeed, the panel considered that Mr Coleman's purported explanation was unpersuasive and implausible.

First, because Mr Coleman relied upon evidence of access to his social media account on dates different from those when these particular reactions were posted. It followed there was no evidence of third-party access on the specific dates in question. When questioned about this and the extent of his investigations, Mr Coleman's responses were vague and unclear.

Secondly, even if the panel was prepared to accept that something untoward did occur with Mr Coleman's account, and there was some evidence to that effect, that evidence alluded to actions that were not of the same nature as the specific reactions in this allegation. It appeared Mr Coleman had in the region of 10,000 followers. There was no evidence that similar reactions were posted more widely in relation to photographs by other females who followed Mr Coleman's account.

It followed that Mr Coleman was suggesting this unknown third-party accessed his account, on these specific dates, without any evidence to that effect, and decided to single out photographs posted by a pupil and former pupil of the School and then decided to respond in this very specific way. The panel considered this was implausible and unlikely in the extreme.

Thirdly, the panel had in mind that Mr Coleman is not an IT expert. There was no expert evidence before the panel. His assertions had to be considered in that context. The evidence relied upon was extremely limited and fell a long way short of clear evidence of interference in relation to these specific posts.

The panel also placed considerable weight upon Mr Coleman's responses when he was first asked about these matters by the School.

With reference to the reaction to the photograph posted by Pupil E, there appeared to be some acceptance, from Mr Coleman, that he was responsible. When pressed about this in his evidence to the panel, Mr Coleman's answers were, once more, vague and unclear. At the relevant time, he did not expressly deny that he was responsible. In the panel's view, that was telling.

The same could be said in relation to the 'fire' emoji, posted with reference to the photograph posted by Pupil A. Mr Coleman's responses to questions asked about this particular issue by the School were, once more, evasive. He was no less evasive about this issue in his evidence to the panel.

For all these reasons, the panel concluded it was more likely than not that Mr Coleman was responsible for both of the reactions particularised in allegations 2(b)(i) and (ii).

Allegation 2(b) was therefore found proved.

c. permitted one or more pupils to follow your social media account.

Mr Coleman accepted that he allowed each of these pupils to follow him on social media and there was clear evidence before the panel to that effect.

Allegation 2(c) was therefore found proved.

3. Your conduct at 1 and/or 2 above:

a. failed to observe a proper boundary appropriate to a teacher's professional position;

Mr Coleman admitted the facts of allegation 3(a).

He accepted that, with the benefit of hindsight, in relation to each of the elements particularised in allegations 1 and 2, he failed to observe a proper boundary appropriate to a teacher's professional position.

The panel agreed in relation to allegations 1(a)(i) to (iv), 1(b)(i) and 2. All teachers have a duty to maintain appropriate professional boundaries with their pupils. In each of the respects found proved in relation to these allegations, Mr Coleman failed to meet the standards expected of him in that regard. Whatever Mr Coleman's motivations may have been, a point which the panel will consider in relation to allegation 4, he allowed professional boundaries to become blurred, which he now recognised. His use of social media and language was not appropriate and appeared to have resulted in some pupils being made to feel uncomfortable.

However, in relation to allegations 1(b)(ii) and 1(c), whilst this was admitted by Mr Coleman, the panel was not satisfied that his actions were such that he failed to observe a proper boundary appropriate to a teacher's position.

The panel therefore found allegation 3(a) proved in relation to allegations 1(a)(i) to (iv), 1(b)(i) and 2.

b. failed to adhere to management advice issued on or around 13 March 2019;

As outlined in the panel's introduction, Mr Coleman received advice in March 2019 regarding his use of social media as well as other matters.

In particular, following various meetings around this time, an email was sent to Mr Coleman by the School's principal on 13 March 2019, which outlined specific guidance. Most saliently, this stated:

"consider your use of social media – my recommendation is to have 'private' accounts, however if this is not possible due to sporting/business interests outside of school, then the advice from LADO is that staff 'block' students when they like/comment on staff social media"; and

"I am highlighting these points and providing these directions to you in order to make sure that you are protecting yourself from allegations which could have a serious impact on you personally and/or professionally."

Given the source and nature of this guidance, the panel considered it was tantamount to management advice which Mr Coleman had a duty, as an employee of the School, to adhere to.

Further, the panel was satisfied that Mr Coleman had failed to adhere to this advice, which he fully accepted, with reference to the panel's findings in allegation 2 but not allegation 1.

The panel therefore found allegation 3(b) proved on this basis.

4. Your conduct at 1a. and/or 1 b. and/or 2 above was sexually motivated in that it was in pursuit of sexual gratification and/or a future sexual relationship.

Having found the facts of allegations 1(a)(i) to (iv), 1(b), 1(c) and 2(a) to (c) proved, the panel went on to consider whether Mr Coleman's conduct was sexually motivated.

On the basis of his actions and in the context in which they occurred, the TRA submitted that the appropriate inference to draw was that Mr Coleman's actions were sexually motivated, in that they were in pursuit of a sexual relationship with the individuals in question and/or for sexual gratification.

It was submitted, for example, that Mr Coleman's actions should be viewed as flirting, with the individuals in question, testing the waters and then, in the respects outlined, pushing matters further.

Reliance was placed upon the nature of the language used and the nature of Mr Coleman's social media reactions, said to be indicative of a sexual attraction. It was suggested that Mr Coleman's conduct was so significant a departure from accepted

behaviour that he was improperly motivated. It was suggested that he took immediate sexual pleasure in the specific actions in question as well as holding out for the prospect of a sexual relationship.

Mr Coleman denied that he was in any way sexually motivated towards any of these pupils or former pupils.

His position was, in summary, that this behaviour was a reflection of his informal, friendly approach, as well as a result of his public social media presence.

On his behalf, reliance was placed upon the outcome of the School's investigation, whereby the conclusion reached was that there was no suggestion and/or insufficient evidence to suggest that Mr Coleman's actions were sexually motivated.

Whilst the panel noted this and the opinion expressed by [redacted] about this particular issue, it proceeded to exercise its own, independent judgment.

In doing so, the panel took account of the fact that Mr Coleman was a person of prior good character. Positive evidence was provided in that regard, which was unchallenged.

Mr Coleman's prior good character, particularly when considered in conjunction with the serious nature of this allegation, meant that the panel had firmly in mind the need to undertake particularly careful and vigorous scrutiny of the evidence before it.

The panel first considered its findings in relation to allegations 1(a)(i) to (iv), b(i), b(ii) and c.

In relation to allegations 1(a)(i) to (iv) and (b)(i), Mr Coleman's actions were clearly inappropriate. His use of language, in particular, was concerning, particularly insofar as he did not realise this at the time. Directing words such as 'love', 'pretty', 'gorgeous' and 'beautiful', in particular, plainly ran the risk of being interpreted as an indication of sexual attraction. The panel did not consider it would have been unreasonable for such behaviour to have been perceived as flirtatious.

It was equally possible that such conduct would have been unwelcome. It was clear, for example, that Pupil A's account indicated his behaviour towards her was unwelcome and made her feel vulnerable. It was also suggested that it was observed on occasions when she was alone. In her absence, this was, of course, an issue that the panel was unable to explore further.

To the contrary, Pupil E did not, it would appear, interpret Mr Coleman's actions as evidencing a sexual intention.

The salient point is that Mr Coleman's actions gave rise to the risk that they could be interpreted and perceived in that way.

However, on balance, the panel was not persuaded that Mr Coleman's motivation or intention in relation to these allegations was sexual.

Rather, it concluded it was more likely than not that this was an aspect of the persona Mr Coleman sought to portray, at this particular time, a consequence of a degree of arrogance on his part and an extremely misguided attempt to be viewed in a certain way and to be liked by the pupils.

In particular, the panel noted that Mr Coleman did not specifically target an individual pupil. To the contrary, the clear suggestion was that this sort of behaviour was relatively commonplace, which in the panel's view negated an obvious sexual intent.

Further, the behaviour, in each of the respects outlined, fell far short of being tantamount to a proposition, or even something that could be viewed, in objective terms, as a fishing expedition, an attempt to engender a favourable response from the pupils in question.

Whilst this behaviour may have been ongoing, there was no change or escalation in the nature or degree of it to suggest that Mr Coleman was, in any way, extending overtures towards a future relationship of some kind.

In addition, this proven behaviour was not of a nature, in the panel's view, that would ordinarily result in sexual gratification.

In relation to allegations 1(b)(ii) and 1(c), the panel considered there was no reasonable basis for saying there was any sexual element to Mr Coleman's actions.

Accordingly, the panel was not persuaded that the appropriate inference to draw, having regard to all the circumstances, was that Mr Coleman was sexually motivated.

The panel arrived at the same conclusion in relation to allegations 2(a) to (c).

Once again, this was inappropriate behaviour. That was particularly so against a backdrop whereby Mr Coleman had received guidance about his use of social media.

However, the panel was not persuaded that Mr Coleman's conduct, in following these pupils, reacting in the manner he did to the photographs posted by Pupil A and Pupil E and allowing pupils to follow him on social media, was of a sexual nature or sexually motivated. This was not personal or targeted behaviour and there was insufficient evidence, in the panel's view, for inferring that Mr Coleman was sexually motivated.

The panel did consider very carefully the position of Pupil E, who was the subject of allegations 1(b), 2(a)(ii) and 2(b)(ii). These actions, particularly considered together, were inappropriate.

Nonetheless, in isolation, in the absence of anything further, in terms of Mr Coleman's actions, and taking account of Pupil E's recorded view of Mr Coleman's behaviour

towards her, there was insufficient evidence to indicate an improper intent or motive on his part.

In summary, on balance, and having carefully weighed all of the evidence, the panel was not persuaded that Mr Coleman's conduct was sexually motivated and therefore found allegation 4 not proved.

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

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

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

The panel was satisfied that the conduct of Mr Coleman, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, he 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
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

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

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

However, the panel found that none of these offences was relevant.

The panel first considered its findings in allegations 1(a)(i) to (iv), (b) and (c), which were considered together and in conjunction with allegation 3(a).

In relation to allegations 1(b)(ii) and 1(c), the panel was satisfied that Mr Coleman's actions were not so serious as to amount to unacceptable professional conduct. His

actions may have been inappropriate and ill-advised, but did not reach the threshold, whether considered individually or together with the other proven allegations.

In relation to allegations 1(a)(i) to (iv) and b(i), together with allegation 3(a) which was consequential to these allegations, Mr Coleman's actions were certainly inappropriate.

Mr Coleman held a position of trust and responsibility as an educator and as an employee, which included adhering to reasonable management advice. He was also a role model to his pupils and had a duty to maintain appropriate professional boundaries at all times.

By his actions in relation to these allegations, Mr Coleman had breached his obligations in this regard. Whilst a single instance of such behaviour may be regarded as excusable or forgivable, this was a pattern of behaviour, involving several pupils and appeared to have been ongoing. Whether or not his actions led to pupils feeling uncomfortable, they had the potential to do so. Considered in totality, as set out above, Mr Coleman's behaviour breached the Teachers' Standards.

His actions reflected very badly upon him and it was a concerning feature of this case that Mr Coleman did not recognise this at the time. Mr Coleman should not have needed express guidance to realise that such behaviour had no place in a school environment. At the time of these events, he appeared to have a degree of arrogance, at worst, or over confidence, at best, which was unbecoming of him.

However, whilst Mr Coleman's actions were highly inappropriate and the panel's decision was finely poised, it concluded that his behaviour, in relation to these allegations considered individually or together, was not so serious as to fall significantly short of the standard of behaviour expected of a teacher.

Accordingly, in summary, the panel concluded that Mr Coleman's actions in relation to allegation 1, together with allegation 3(a) insofar as that relates to allegation 1, did not amount to unacceptable professional conduct.

The panel next considered its findings in allegations 2(a) to (c) together with allegation 3 once more.

Mr Coleman's behaviour was, again, wrong and inappropriate. Particularly considered in totality, this was a failure to maintain appropriate professional boundaries, which amounted to a breach of the Teachers' Standards. The reactions particularised in allegation 2(b) reflected particularly badly upon Mr Coleman, having regard to his position as a teacher.

It was an aggravating feature of this case that Mr Coleman behaved as he did after having been put on express notice of the School's expectations of him. That he failed to

adhere to this and recognise the implications of his actions was, once again, indicative of a degree of arrogance on his part.

However, there was a wider context to this case. Mr Coleman had a considerable social media presence and beyond the posts referenced in allegation 2(b), there was no evidence he positively engaged with these pupils on social media.

In all the circumstances and on balance, the panel considered that Mr Coleman's behaviour in relation to these allegations, considered individually or together, was not so serious as to fall significantly short of the standard of behaviour expected of a teacher.

It therefore concluded that Mr Coleman's actions in relation to allegations 2(a) to (c), together with allegation 3 insofar as that relates to allegation 2, did not amount to unacceptable professional conduct.

In summary, the panel therefore concluded that Mr Coleman was not guilty of unacceptable professional conduct.

The panel went on to consider whether Mr Coleman's conduct was such as to bring the teaching profession into disrepute.

In relation to allegations 1(b)(ii) and 1(c), for the same reasons as outlined above, the panel was not persuaded that Mr Coleman's actions did bring the profession into disrepute.

However, considered in totality, in relation to the remaining allegations, the panel concluded that he did.

There was a central thread to Mr Coleman's behaviour, namely a failure to maintain appropriate professional boundaries and, particularly, to meet the expectations upon him as a role model.

Plainly, pupils, other staff members and also parents do not expect teachers to communicate in this way and to conduct themselves on social media in this manner. There is also, clearly, an expectation that teachers will adhere to appropriate management advice.

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.

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

The panel therefore found that Mr Coleman's actions, considered in totality, did constitute conduct that may bring the profession into disrepute.

In summary, having found the facts of particulars 1(a)(i) to (iv), 1(b)(i), 2 and 3 proved, the panel further found that Mr Coleman's conduct, in relation to these allegations, amounted to conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

- the protection of pupils;
- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Coleman, which involved an ongoing failure to maintain appropriate professional boundaries, in relation to several pupils and in distinct respects, there was a clear public interest consideration in respect of the protection of pupils. This was conduct that took place within the school environment or, with reference to allegation 2, was directly linked to it.

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

The panel was also 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 Coleman was outside that which could reasonably be tolerated.

Weighed against these matters, the panel also concluded that there was an element of public interest in retaining Mr Coleman in the profession.

Mr Coleman was not someone who, to date, could be regarded as having made an exceptional contribution to education. However, there was extensive and positive evidence about his character and, to a lesser extent, his practice. He was clearly passionate about education and working with learners. At the time of these events, he was a relatively inexperienced teacher and there had clearly been a significant amount of learning and development in the period since. Mr Coleman, now, recognised and accepted that he had let himself and the profession down. He had clearly reflected upon his behaviour and grown as a consequence. These are matters that are addressed further below.

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 Coleman.

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 Coleman.

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, the only one relevant in this case was:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

Even though some of the behaviours found proved in this case indicated that a prohibition order could 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, it considered the following mitigating factors were present in this case:

- Mr Coleman had an otherwise unblemished record. There was no evidence that he had been subject to any previous regulatory or disciplinary proceedings.
- The panel was presented with extensive, positive evidence about Mr Coleman's character. It was satisfied that he was someone who was genuinely inspired to develop and positively impact upon young people, despite having veered off course in relation to the allegations before the panel. In the period since leaving the School, he had taken commendable efforts to further his education and had continued to work with young people.
- Mr Coleman was a relatively inexperienced teacher and there was a broader context whereby it was likely he was influenced at least to some extent, in terms of

his approach, by his sporting background and the types of environment he was used to. Mr Coleman's extensive social media activity and presence, with reference to his interests outside of school, also played a part.

- There was no evidence of any harm to pupils as a result of Mr Coleman's actions. It followed that there were no serious consequences to his actions; for example, there was no direct impact on pupils' education or safeguarding.
- The panel had concluded that the failings found proved were not so serious as to amount to unacceptable professional conduct.
- The panel's findings were not such that Mr Coleman was improperly motivated. Rather, it was persuaded his conduct was an aspect of his over-confidence, bordering on arrogance in some respects, and an attempt to portray himself and to be regarded in a certain way.
- Mr Coleman had fully engaged in these proceedings and admitted the majority of the allegations.
- Mr Coleman had apologised for his actions and recognised and accepted that he had fallen short of the standards expected of him. To that extent, Mr Coleman had shown clear regret and remorse. That was amplified by the clear impact these proceedings have had upon him.
- Mr Coleman had shown considerable and sincere insight. There was clear evidence that Mr Coleman understood the inappropriate nature of his conduct and had learnt important and, in all likelihood, painful lessons. He recognised and accepted that he had let himself and the profession down and he had reflected upon his behaviour and grown as a consequence.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Mr Coleman's actions amounted to a clear breach of the Teachers' Standards.
- Mr Coleman's actions were deliberate and he was not acting under duress.
- This was not an isolated breach but a pattern of behaviour.
- In relation to allegation 1, Mr Coleman's conduct occurred within the school environment and posed a risk that pupils could have been made to feel uncomfortable, as appeared to be the case with one pupil.
- In relation to allegation 2, Mr Coleman's action occurred despite clear guidance having been provided by the School.

- In relation to allegation 2(b), the panel had concluded that Mr Coleman's evidence to the panel was evasive. That was consistent with how he had responded to this aspect during the School's investigation. It followed that Mr Coleman had not taken full responsibility for this element of his conduct.

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 be both a proportionate and an appropriate response.

With particular regard to the mitigating factors present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case, for the following reasons in particular.

First, the panel considered that the conduct found proved, in context, was not at the serious end of the spectrum. It did not amount to unacceptable professional conduct.

Considered in its proper context, the panel was not satisfied that Mr Coleman's actions were fundamentally incompatible with his continuing to be a teacher. To the contrary, there was every possibility he could prove to be an asset to the profession in the future.

Secondly, learners were not seriously impacted. It was not a case that resulted in serious consequences. That was an important consideration in terms of a proportionate outcome.

Thirdly, Mr Coleman had shown considerable insight having undergone a period of reflection. He showed genuine regret and remorse. He had learnt important lessons, which will have been strengthened through this process. Mr Coleman recognised and accepted that he had let himself and the profession down.

In all these circumstances, the panel considered it was highly unlikely that Mr Coleman would put himself in a similar situation in the future. It therefore concluded that the risk of repetition was low.

Having regard to these matters and the other mitigating factors identified above, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

Whilst the panel very carefully took account of the public interest considerations Mr Coleman's proven conduct gave rise to, it was satisfied that the publication of its adverse findings would be sufficient to send an appropriate message as to the standards of behaviour that were not acceptable.

The panel considered this to be a proportionate outcome, which struck a fair balance between the public interest and Mr Coleman's interests. In arriving at this conclusion, the panel had in mind that whilst Mr Coleman had made mistakes and exhibited poor judgment, he had already suffered the consequences. The damage to his reputation will continue as a consequence of the panel's findings.

In the panel's judgment, for the reasons outlined above, there was no continuing risk. The panel was also satisfied that its decision was sufficient to maintain public confidence and to uphold professional standards.

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 sanction.

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 conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, including allegation 4. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr David Coleman should not be the subject of a prohibition order. The panel has recommended that the findings of conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Coleman 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
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach

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

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Coleman, 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 safeguard pupils. The panel has observed, "There was no evidence of any harm to pupils as a result of Mr Coleman's actions. It followed that there were no serious consequences to his actions; for example, there was no direct impact on pupils' education or safeguarding."

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Coleman had apologised for his actions and recognised and accepted that he had fallen short of the standards expected of him. To that extent, Mr Coleman had shown clear regret and remorse. That was amplified by the clear impact these proceedings have had upon him" 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, "In the light of the panel's findings against Mr Coleman, which involved an ongoing failure to maintain appropriate professional boundaries, in relation to several pupils and in distinct respects, there was a clear public interest consideration in respect of the protection of pupils. This was conduct that took place within the school environment or, with reference to allegation 2, was directly linked to it." I am particularly mindful of the finding of failure to maintain appropriate professional boundaries with pupils 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 conduct that may bring the profession into disrepute, 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 Coleman himself and the panel comment “Mr Coleman was not someone who, to date, could be regarded as having made an exceptional contribution to education. However, there was extensive and positive evidence about his character and, to a lesser extent, his practice. He was clearly passionate about education and working with learners. At the time of these events, he was a relatively inexperienced teacher and there had clearly been a significant amount of learning and development in the period since. Mr Coleman, now, recognised and accepted that he had let himself and the profession down. He had clearly reflected upon his behaviour and grown as a consequence.”

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

In this case, I have placed considerable weight on the panel’s comments concerning insight. The panel has said, “Mr Coleman had shown considerable and sincere insight. There was clear evidence that Mr Coleman understood the inappropriate nature of his conduct and had learnt important and, in all likelihood, painful lessons. He recognised and accepted that he had let himself and the profession down and he had reflected upon his behaviour and grown as a consequence.”

In addition I have given considerable weight to the following comment from the panel “In all these circumstances, the panel considered it was highly unlikely that Mr Coleman would put himself in a similar situation in the future. It therefore concluded that the risk of repetition was low.”

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'SABuxcey', with a stylized flourish at the end.

Decision maker: Sarah Buxcey

Date: 4 October 2022

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

