



Teaching
Regulation
Agency

Mr Daniel Draghici: Professional conduct panel outcome

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

February 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	7
Documents	7
Witnesses	7
Decision and reasons	8
Findings of fact	8
Panel's recommendation to the Secretary of State	16
Decision and reasons on behalf of the Secretary of State	19

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

Teacher:	Mr Daniel Draghici
Teacher ref number:	1784970
Teacher date of birth:	5 August 1967
TRA reference:	18180
Date of determination:	1 March 2023
Former employer:	Enlighten Supply Pool

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 27 February to 1 March 2023 by way of a virtual hearing, to consider the case of Mr Daniel Draghici.

The panel members were Ms Elizabeth Pollitt (teacher panellist – in the chair), Mr Clive Sentance (teacher panellist) and Mr Ian McKim (lay panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Amalea Bourne of Browne Jacobson solicitors.

Mr Draghici was not present and was not represented.

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

Allegations

The panel considered the allegations set out in the notice of proceedings dated 14 December 2022.

It was alleged that Mr Draghici was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst engaged as a supply teacher at the Queen's School ('the School'), he:

1. Engaged in inappropriate and/or aggressive behaviour towards Pupil A on or around 27 April 2018, in that he:
 - a) grabbed Pupil A by the hair;
 - b) hit Pupil A around his face and/or head;
 - c) kicked Pupil A around his upper leg and/or bottom; and
 - d) said and/or shouted "what the fuck is wrong with you" or words to that effect.
2. His behaviour towards Pupil A as may be proven at 1 above resulted in him sustaining a red ear and/or a sore back.

Mr Draghici did not provide a formal response to the notice of proceedings, nor did he provide any representations or evidence in respect of the allegations.

Preliminary applications

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 (the 'Procedures') apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the Procedures in this case.

Application to proceed in the absence of the teacher

Mr Draghici was not present at the hearing nor was he represented.

The presenting officer made an application to proceed in the absence of Mr Draghici. The presenting officer provided a written application in advance of the hearing, supported by

a bundle of documents. The presenting officer also provided oral submissions at the outset of the hearing.

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*).

The panel noted that postal correspondence to Mr Draghici's last known address had been returned. Furthermore, the presenting officer firm had been unable to trace a current address for Mr Draghici. Despite running various searches using open-source data, Mr Draghici could not be linked to any residential addresses in the UK.

However, the notice of proceedings was sent to Mr Draghici's last known email address ([REDACTED]) on 14 December 2022, more than 8 weeks before the hearing commenced on 27 February 2023. The presenting officer firm obtained this email address from Enlighten Supply Pool, the agency Mr Draghici had worked for. The panel was provided with a copy of an email from Mr Draghici (sent from [REDACTED]) to the presenting officer firm dated 2 April 2020 within which Mr Draghici confirmed that the presenting officer firm could use this email address ([REDACTED]) to contact him. The panel was therefore satisfied that the notice of proceedings had been sent to Mr Draghici in accordance with the Procedures.

The presenting officer submitted that attempts had been made to contact Mr Draghici on 2 April 2020; 5 November 2020; 23 March 2021; 18 August 2021; 7 February 2023; and 9 February 2023. However, despite this, there had been no engagement from Mr Draghici, save for his email of 2 April 2020.

The panel concluded that Mr Draghici's absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel noted that Mr Draghici had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Draghici was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Draghici was neither present nor represented.

Application for Pupil B to attend the hearing and give oral evidence

The presenting officer made an application for Pupil B to attend the hearing and give oral evidence. Pupil B had provided a witness statement as part of these proceedings dated 19

October 2020 and a contemporaneous written statement at the time of the incident on 27 April 2018. However, Pupil B was not included on the TRA's list of witnesses in the notice of proceedings on the basis that Pupil B did not wish to attend the hearing to provide oral evidence. The presenting officer explained there had subsequently been engagement with Pupil B and he made himself available to attend the hearing and provide oral evidence.

Mr Draghici was not present at the hearing, however the presenting officer confirmed that he had been provided with a copy of her application in advance of the hearing.

The panel decided that Pupil B should be permitted to attend and give oral evidence given that he witnessed the incident that took place on 27 April 2018 and this would allow the panel the opportunity to test Pupil B's evidence.

Application for witness evidence to be admitted as hearsay

The presenting officer applied for Pupil A's witness evidence (comprised of a witness statement provided as part of these proceedings dated 23 June 2020 and a written statement given by Pupil A at the time of the incident on 27 April 2018) to be admitted as hearsay evidence. The presenting officer made a further application for a witness statement from Pupil A's [REDACTED] dated 14 July 2020 to be admitted as hearsay evidence.

The presenting officer submitted that Pupil A [REDACTED] and would not cope well with giving evidence because he would struggle to manage the pressure. Special measures were considered, but Pupil A's [REDACTED] was of the view that those measures would not address her concerns about Pupil A giving live oral evidence. The presenting officer submitted that Pupil A would be treated as a vulnerable witness.

The panel noted that in her witness statement, Pupil A's [REDACTED] stated that he [REDACTED]. However, at the time of the application, the panel was not provided with any independent evidence ([REDACTED] or otherwise) regarding Pupil A's [REDACTED]. The panel also noted that, although Pupil A is now aged [REDACTED], he had not made any submissions as to his attendance at the hearing.

The allegations in this matter relate solely to Mr Draghici's alleged conduct in respect of Pupil A. In that sense, the panel accepted that Pupil A's evidence would be important in these proceedings. However, the panel did not consider Pupil A's evidence to be sole and decisive on the basis that other witnesses were attending the hearing to give oral evidence (including Pupil B who had witnessed the incident).

Mr Draghici was not present at the hearing, however the presenting officer confirmed that he had been provided with a copy of her application in advance of the hearing.

After receiving submissions from the presenting officer and receiving legal advice, the panel decided to admit Pupil A's evidence as hearsay evidence but that it would determine the weight to be placed on this evidence. The panel concluded that Pupil A's evidence was not sole and decisive and it was comfortable that it would be able to test its reliability in Pupil A's absence by questioning other witnesses. In particular, the panel was of the view that the contemporaneous statement Pupil A gave on 27 April 2018 would be helpful to it in determining this matter. Whilst medical evidence was not provided in respect of Pupil A, the panel was satisfied with the reason for his non-attendance. On balance, the panel concluded that it would be fair to admit the evidence.

However, the panel decided not to admit the witness statement from Pupil A's [REDACTED] as hearsay evidence. The panel was not provided with any clear or cogent reason for her non-attendance and therefore considered that it was not fair to admit this evidence. Furthermore, the witness statement was provided some time after the event took place and did not therefore comprise a contemporaneous account of the incident. The presenting officer was made aware that she could seek to call this individual to give oral evidence should she consider it appropriate to do so. The presenting officer made efforts to arrange for Pupil A's [REDACTED] to attend the hearing to give oral evidence, but she declined to attend.

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 4 to 5
- Section 2: Notice of proceedings and response – pages 7 to 18
- Section 3: Witness statements – pages 20 to 39
- Section 4: TRA documents – pages 41 to 72

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

Witnesses

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

- Witness H, [REDACTED];
- Witness I, [REDACTED];

- Pupil B, former pupil at the School; and
- Pupil E, former pupil at the School.

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 26 April 2018, Mr Draghici was deployed to the School by Enlighten Supply Pool ('the Agency') to undertake supply teaching work.

On 27 April 2018, Mr Draghici allegedly engaged in inappropriate physical contact and the use of foul language towards Pupil A during a [REDACTED] physical education ('PE') lesson. Pupil A and other pupils who witnessed the incident provided written statements on the day of the incident. Mr Draghici also prepared a statement and was then escorted from the School premises.

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. Engaged in inappropriate and/or aggressive behaviour towards Pupil A on or around 27 April 2018, in that he:**
 - a) grabbed Pupil A by the hair;**
 - b) hit Pupil A around his face and/or head;**
 - c) kicked Pupil A around his upper leg and/or bottom; and**
 - d) said and/or shouted "what the fuck is wrong with you" or words to that effect.**

Mr Draghici did not attend the hearing, nor did he provide any response, representations or evidence in respect of allegation 1.

The panel was provided with a handwritten statement Mr Draghici prepared for the School on the date of the incident, 27 April 2018. In oral evidence Witness I told the panel that he asked Mr Draghici to prepare this statement, but he did not read it. He escorted Mr Draghici from the premises and took the statement to the [REDACTED], [REDACTED]. The panel was provided with minutes of a LADO initial strategy meeting

on 2 May 2018 within which [REDACTED] confirmed that the School did not obtain any detailed information as to Mr Draghici's response to the incident.

The statement was not entirely legible and appeared to have been prepared by somebody who was not fluent in English. The panel could not clearly understand the contents. It appeared to read as follows: *"From the beginning of the hour in the changing room, the student start to talk trash and be disrespectful against me. This behaviour encourage the other students. During the lesson, our student continue to not respect the program and I ask him to stop. He prefer to continue and I ask him once again to stop or sit down and let the other students practice their lesson. Then he started to go outside by the emergency door. I stop 3 time my lesson going outside to bring them back... he push me and close the emergency door after me. I force the door and I go inside to ask him to get in the other side of the hall and stop the completely the lesson. Again talk me trash and decide to send him in the other side of the hall but I slept and I crush over him after that he ran and I ask him again to stop his behaviour..."* [sic]

The panel considered the wording of the statement and concluded that it was very unlikely Mr Draghici fell asleep during the incident and therefore *"I slept"* is likely to be an error. The panel was provided with minutes of a LADO initial strategy meeting on 2 May 2018. The minutes indicate that [REDACTED], stated that Mr Draghici admitted to the supply agency that he slapped a child. The panel considered that the reference to *"I slept"* could mean *"I slapped"*. However, the panel was not provided with any evidence other than the LADO minutes which indicated that Mr Draghici admitted to slapping a child. The panel considered that *"I slept"* could also mean *"I slipped"*. In the absence of a clearer written statement or submissions from Mr Draghici, the panel was unable to determine what his position was in respect of the allegations.

Pupil A did not attend the hearing to give oral evidence. The panel was provided with a witness statement prepared for the hearing, which was signed by Pupil A on 23 June 2020 and accompanied by a statement of truth. The panel was also provided with the handwritten witness statement Pupil A provided the School on the date of the incident, 27 April 2018. The panel agreed to admit both of these documents as hearsay evidence, as outlined above.

In the handwritten statement dated 27 April 2018, Pupil A stated: *"We were in PE and the new supply teacher went outside and got locked out and when he came back in he grabbed my hair and hit me round the face (my ear) and kicked me in my leg so I ran to Witness H and she took me to [REDACTED]."*

In the statement dated 23 June 2020, Pupil A stated: *"Due to the passage of time, my memory of this incident is vague. However, I do recall that the class were all located in the hall prior to the incident taking place. A student went outside the fire door exit and so Mr Draghici followed. The student then came back into the hall and shut the fire door exit so that Mr Draghici was trapped outside. After a few seconds I then opened the door and*

Mr Draghici thought it was me who had shut it. Mr Draghici then entered the hall and ran towards me. Once he approached me, he grabbed my hair and pushed me away by using his hand to my face with considerable force. He also kicked me right at the top of my leg but the pain felt as if he had also kicked the bottom of my back area... I do not remember if Mr Draghici said anything to me during the physical contact..."

The panel heard oral evidence from Witness H. On 27 April 2018, both Witness H and Mr Draghici were [REDACTED] in the School's sports hall. Witness H explained that the sports hall has a large curtain running down the centre of the room which separated her lesson from Mr Draghici's lesson. Witness H could hear what was happening on the other side of the curtain but she could not see anything unless she stood right up to the curtain.

Witness H saw pupils leaving the sports hall through the fire exit and Mr Draghici bringing them back. She also saw that Mr Draghici had been locked outside of the sports hall. She saw Mr Draghici return to the sports hall and approach Pupil A. Mr Draghici and Pupil A then disappeared from her view, but she heard Pupil A shout "*help me... he's coming to get me... he's going to hit me*" and realised that Mr Draghici was chasing Pupil A. As Mr Draghici and Pupil A had disappeared from her view, Witness H did not witness the incident. However, Witness H told the panel that Pupil A ran over to her and stood behind her. She described Pupil A as "*petrified*" and said he was crying. Witness H took Pupil A out of the sports hall. She also took Mr Draghici to the PE office and notified Witness I of the incident.

The panel heard oral evidence from Witness I. On 27 April 2018, Witness H informed Witness I that a serious incident had taken place between Mr Draghici and Pupil A. Witness I went to see Mr Draghici in the PE office and asked him to write a statement, which he gave to the [REDACTED] without reading it (as described above). Witness I was not in the sports hall at the time the incident took place and therefore did not witness the incident.

The panel heard oral evidence from Pupil E. Pupil E was in Mr Draghici's PE class on 27 April 2018. He told the panel that Mr Draghici was struggling to control the class and pupils were misbehaving throughout the lesson. At the time the incident took place, Pupil E was on the other side of the sports hall messing around. He subsequently clarified that he was on the side of the sports hall that was being used for Mr Draghici's lesson (as opposed to the side where Witness H's lesson was taking place), but he was not near the fire door where the incident took place. Pupil E realised that something had happened between Pupil A and Mr Draghici and ran over to witness the aftermath. Pupil E described lots of pupils running over to the fire door to witness what had happened.

Pupil E said that Mr Draghici and Pupil A were both outside the sports hall close to the fire door. The door was open and Pupil A was on the floor directly outside the door on a patch of grass. Mr Draghici was also outside, facing inwards towards the sports hall. Pupil E described Pupil A as being distressed, crying and holding his stomach as if he

had been winded. Pupil E said that the incident occurred very quickly, towards the end of the lesson and he (and other pupils) ran over when they heard a commotion.

Pupil E did not witness the incident. Pupil E heard other pupils say that Mr Draghici had hit Pupil A, pushed him and kicked him. Pupil E said it was not clear exactly what physical action had taken place but something had definitely happened.

Pupil E told the panel that the pupils chased Mr Draghici into the sports hall and threw relay batons at him. Meanwhile, Pupil E and others comforted Pupil A. Pupil E described Witness H as walking over to the incident and standing between Pupil A and Pupil E and Mr Draghici. Witness H then told the pupils to go to the changing rooms and took Pupil A with her. Pupil E said that he was angry at Mr Draghici. He shouted at him and recalled Mr Draghici pointing at him and saying "*you better watch yourself*".

Overall, Pupil E described a chaotic incident with lots of shouting, commotion and poorly behaved pupils. Given the passage of time, Pupil E was unable to recall certain information and he told the panel when he was unable to remember information.

The panel heard oral evidence from Pupil B. Pupil B was also in Mr Draghici's PE class on 27 April 2018. Pupil B told the panel that Mr Draghici had an accent and various pupils in the class were making fun of him and messing around. Pupil B recalled pupils leaving the sports hall via the fire door. When Mr Draghici went outside to call them back in, they ran inside and closed the door so that Mr Draghici was left outside.

When the fire exit door was opened, Mr Draghici charged at Pupil A, shook his head very aggressively and then started whacking and punching him in the upper body area. Mr Draghici then kicked Pupil A on his bum area and hit his head.

Pupil B was the only witness to provide oral evidence who had witnessed the alleged physical behaviour. The panel therefore pressed Pupil B on the events that took place. The panel found Pupil B to be a credible witness. He confirmed that sustained physical contact took place and he was consistent in the explanation he provided. He demonstrated how Mr Draghici grabbed Pupil A's head from either side and shook it. He was clear that Mr Draghici hit Pupil A two or three times on his upper body and kicked him once on his bottom.

In his witness statement, Pupil B recalled Mr Draghici swearing at Pupil A during the incident and believed that he said "*what the fuck is wrong with you?*". During the course of his oral evidence, Pupil B could not recall exactly what was said but confirmed that the evidence he had provided at the time would have been correct.

Witness I told the panel that Individual K, [REDACTED] at the School, obtained the handwritten statement from Pupil A and also obtained handwritten statements from pupils who had witnessed the incident. The statements were passed to Individual J. The panel was not provided with witness statements from Individual J and Individual K, nor did they

attend the hearing to give oral evidence. However, the panel was provided with handwritten statements from Pupils B, C, D, E, F, G dated 27 April 2018.

The statements contained the following information:

- Pupil B said *“[Pupil A] decided to close the door on [Mr Draghici] when everyone got back inside. The teacher then managed to get back in and... he then charged at [Pupil A], shook his head very aggressively and then started whacking and punching him, next thing we know he kicked [Pupil A] on his bum and hit his head again... after this happened he started swearing at [Pupil A] and he said “what the fuck is wrong with you”...”*
- Pupil C said *“[Pupil A] shut the fire exit door on the new teacher. The teacher got angry and charged at [Pupil A] and started hitting and kicking him...”*
- Pupil D said *“[Mr Draghici] tried to grab [Pupil A], [Pupil A] got up and ran and the guy pulled his hair, hit him and grabbed him then carried on tryna [sic] go for him then I got in the way...”*
- Pupil E did not witness the incident. His handwritten statement said: *“I saw [Pupil A] crying and trying to get away from the teacher. Everybody rushed over to tell me what happened and they all said that [Pupil A] was hit, grabbed and kicked by the teacher...”*
- Pupil F said: *“[Pupil A] had closed the fire door on the teacher, the teacher came inside and was clearly angry he approached [Pupil A] and hit/smacked [Pupil A] on the head a few times and afterwards kicked his back/bum...”*
- Pupil G said: *“...[Pupil A] started getting punched in the head by the teacher as the teacher grabbed him by the collar of his shirt and started kicking him a lot of times.”*

Pupil E's witness statement dated 6 September stated: *“...myself and a few of my friends were taken to the canteen and asked to provide witness statements just before lunchtime. The day after we were asked to provide statements on a proper witness statement template...”* The bundle only contained one set of handwritten statements from the pupils, all dated on the day of the incident, 27 April 2018. 27 April 2018 was a Friday and therefore the panel considered it unlikely that the pupils would be asked to return to write statements again on the next day, a Saturday. Pupil E clarified that he only provided one statement, the handwritten statement in the bundle.

Pupil E told the panel that he and Pupils B, C and F were taken to the canteen by a senior member of staff and provided with a template form to fill out. The staff members then left the pupils to prepare the statements alone. Pupil E said that the pupils spent about 5 or 10 minutes chatting *“making sure we had the story straight. Going back over*

what had happened and saying what had happened” but that they all wrote down what they saw happen.

Pupil B also recalled being taken to the canteen by a senior member of staff to provide statements. He told the panel that the pupils sat separately to write their statements and that he did not discuss his statement with the other pupils. He wrote down what he saw happen. Pupil B recalled spending 10 to 15 minutes with other pupils in the changing rooms, during which they may have discussed the incident, but he could not remember this clearly.

The panel concluded that the handwritten statements were broadly consistent with one another and with the wider evidence presented to the panel. It accepted that there were likely to be slight deviations in the accounts provided, especially given the chaotic event that had taken place. The panel considered that the differences added to the credibility of the statements and did not suggest that any material collusion had taken place. The panel was of the view that it was unlikely that the pupils would have been able to completely fabricate a story of this nature in any discussions they may have had during the short time (10-15 minutes) before they wrote their statements. The evidence provided to the panel strongly indicated that an incident had taken place as described by the pupils. The panel found the handwritten statements taken on 27 April 2018 to be compelling contemporaneous evidence.

The panel was mindful that the hearing bundle contained hearsay evidence. It placed more weight on the evidence in the bundle that was supported by the oral evidence it heard during the hearing. The panel was also mindful that the witness statements taken by the TRA were taken several years after the incident took place, and appreciated that the witnesses’ memories would have faded with the passage of time. For this reason, the panel placed greater weight on the handwritten statements provided on 27 April 2018.

The panel concluded on the balance of probabilities that Mr Draghici had: (a) grabbed pupil A by the hair; (b) hit Pupil A around his face, head or upper body; (c) kicked Pupil A around his upper leg or bottom; and (d) said or shouted *“what the fuck is wrong with you”* or words to that effect.

The panel concluded that this clearly constituted inappropriate and/or aggressive behaviour.

The panel found allegations 1(a), 1(b), 1(c) and 1(d) proven.

2. His behaviour towards Pupil A as may be proven at 1 above resulted in him sustaining a red ear and/or a sore back.

Mr Draghici did not provide any response, representations or evidence in respect of allegation 2.

Pupil A's handwritten statement dated 27 April 2018 did not refer to any injuries sustained as a result of the incident. However, it did refer to Witness H taking Pupil A to [REDACTED].

In Pupil A's witness statement dated 23 June 2020, Pupil A stated: *"...I remember feeling pain in my leg when walking and also had pain in the lower part of my back; I went to the doctors a few days later due to the discomfort. I recall the pain lasting for around a week."*

In his witness statement dated 6 September 2022, Pupil E stated: *"...Pupil A looked like he had been winded and looked really distressed and he was crying and completely in shock"* In Pupil B's witness statement dated 19 October 2020, he stated: *"Pupil A was visibly upset, appeared in pain and was almost crying"*

The minutes from the LADO strategy meeting on 2 May 2018 indicate that, when asked if Pupil A had reddening on him as a result of the incident, Individual J stated: *"It did not develop any more than from the Friday. [Individual J] spoke to [Pupil A] in school on Monday and he said he was fine. [Individual J] also spoke to [Pupil A]'s [REDACTED] who said there were no after effects."*

In an email from Individual J to the TRA dated 1 May 2019, Individual J stated: *"Injuries: student had a red ear and sore back and these were confirmed by [REDACTED]"*.

The panel was provided with a police case note dated 2 May 2018 which stated: *"This was certainly heavy handed but [Pupil A] has no visible injuries and it is not in his best interests to pursue this criminally..."*

The panel was not provided with witness statements from Individual J or the School's [REDACTED], nor did they attend the hearing to give oral evidence.

Whilst it would have been helpful for the panel to hear from these individuals, the panel concluded that it was more likely than not that Pupil A suffered reddening and soreness as a result of being grabbed, hit and kicked as described in allegation 1, even if such injuries would have been unlikely to persist longer than a few days (which was consistent with the police case note).

The panel was satisfied, on the balance of probabilities, that Mr Draghici's behaviour towards Pupil A as described in allegation 1 resulted in Pupil A sustaining a red ear and a sore back.

The panel found allegation 2 proven.

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

Having found 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 Draghici, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Draghici 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.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Draghici amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. It is utterly unacceptable for a teacher to grab, hit and kick a pupil. Whilst the panel heard evidence in respect of the behaviour of the class, this certainly did not excuse Mr Draghici's behaviour. As a professional, he should have sought to manage the behaviour of the class and de-escalate the situation appropriately.

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

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

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception. The public would not expect members of the teaching profession to engage in physical contact or use foul language towards a pupil.

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

Having found the facts of allegations 1(a), 1(b), 1(c), 1(d) and 2 proved, the panel further found that Mr Draghici's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

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

The panel's findings against Mr Draghici involved: inappropriate and aggressive behaviour towards a pupil; the use of physical force against a pupil; and using foul language towards a pupil. There was therefore a strong public interest consideration in respect of the protection of pupils.

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

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Draghici. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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

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

Even though 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.

Mr Draghici did not engage with these proceedings, despite having the opportunity to do so. He did not present the panel with any representations or evidence, including in respect of mitigation. The panel was not presented with any evidence to indicate that Mr Draghici demonstrated insight or remorse in respect of his conduct.

The panel concluded that Mr Draghici's actions were deliberate. He deliberately engaged in physical force towards a pupil and used foul language.

The panel acknowledged that Mr Draghici was given a troublesome class to teach on the second day of his deployment as a supply teacher at the School. The panel took account of Pupil B and Pupil E's evidence that the class was poorly behaved and pupils were mocking Mr Draghici's accent. The panel understood that this might have upset Mr Draghici or caused him to lose his temper. However, the panel did not consider that this amounted to extreme duress, nor did it justify Mr Draghici's conduct in using physical force and foul language towards a pupil. He should have sought to manage pupils' behaviour and de-escalate the situation without resorting to the use of physical force and foul language.

No evidence was submitted to attest to Mr Draghici's history or ability as a teacher. There was no evidence before the panel that Mr Draghici demonstrated exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Draghici of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Draghici. The serious nature of the misconduct, the lack of engagement with the regulator and the lack of any insight and remorse were significant factors 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 2 years.

The panel considered the list of behaviours at paragraph 50 of the Advice. The Advice states that where a case involves such behaviours, it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. The panel did not find that any of these behaviours were relevant.

The panel also considered the list of behaviours at paragraph 51 of the Advice. The Advice states that where a case involves such behaviour it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate. The list includes “violence” which was relevant in this case, given the panel’s findings in respect of the use of physical force.

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 5 year review period. The panel considered that a review period of 5 years reflected the seriousness of Mr Draghici’s misconduct and provided a sufficient period of time to allow him to reflect on his conduct, engage with the TRA and demonstrate insight and remorse.

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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Draghici 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.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have

considered therefore whether or not prohibiting Mr Draghici and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "It is utterly unacceptable for a teacher to grab, hit and kick a pupil. Whilst the panel heard evidence in respect of the behaviour of the class, this certainly did not excuse Mr Draghici's behaviour. As a professional, he should have sought to manage the behaviour of the class and de-escalate the situation appropriately." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel was not presented with any evidence to indicate that Mr Draghici demonstrated insight or remorse in respect of his conduct."

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

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

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

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

I have also considered the impact of a prohibition order on Mr Draghici himself. The panel comment "No evidence was submitted to attest to Mr Draghici's history or ability as a teacher. There was no evidence before the panel that Mr Draghici demonstrated exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector."

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

In this case, I have placed considerable weight on the panel's comments, "The panel's findings against Mr Draghici involved: inappropriate and aggressive behaviour towards a pupil; the use of physical force against a pupil; and using foul language towards a pupil. There was therefore a strong public interest consideration in respect of the protection of pupils."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Draghici 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 5 year review period.

I have considered the panel's comments "The panel considered that a review period of 5 years reflected the seriousness of Mr Draghici's misconduct and provided a sufficient period of time to allow him to reflect on his conduct, engage with the TRA and demonstrate insight and remorse."

I have considered whether a 5 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, there are factors which mean that allowing a two-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the misconduct found and the lack of insight or remorse.

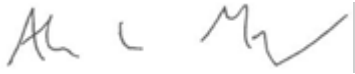
I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Daniel Draghici is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 10 March 2028, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet

to consider whether the prohibition order should be set aside. Without a successful application, Mr Daniel Draghici remains prohibited from teaching indefinitely.

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

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

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

Decision maker: Alan Meyrick

Date: 6 March 2023

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