



Teaching
Regulation
Agency

Mr Thomas James Moody: Professional conduct panel outcome

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

March 2023

Contents

Introduction	3
Allegations	4
Preliminary applications	5
Summary of evidence	8
Documents	8
Witnesses	8
Decision and reasons	9
Findings of fact	10
Panel's recommendation to the Secretary of State	21
Decision and reasons on behalf of the Secretary of State	23

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

Teacher: Mr Thomas James Moody

TRA reference: 17317

Date of determination: 27 March 2023

Former employer: Melior Community Academy, Scunthorpe

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 20 to 27 March 2023 by way of a virtual hearing, to consider the case of Mr Thomas Moody.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mr Martyn Stephens (lay panellist) and Ms Mona Sood (lay panellist).

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

The presenting officer for the TRA was Ms Charlotte Watts of Browne Jacobson LLP solicitors.

Mr Moody was present intermittently but 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 9 January 2023.

It was alleged that Mr Moody was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute: in that he:

1. Developed and/or engaged in an inappropriate and/or sexual relationship with Pupil X between October 2017 and April 2018, including by;
 - a) giving her his personal email address in or around October 2017;
 - b) exchanging personal messages with her on one or more occasions;
 - c) meeting with her on one or more occasions, including:-
 - i. at her home;
 - ii. in his car;
 - iii. by going for a picnic with her;
 - d) buying her a gift on one or more occasions, including a bracelet;
 - e) kissing her on one or more occasions;
 - f) engaging in sexual activity with her on one or more occasions;
2. He failed to maintain appropriate professional boundaries with one or more female pupils, including;
 - a) in or around October 2017, by giving his personal email address to them;
 - b) by exchanging personal messages with them on one or more occasions, including on one or more occasions between November 2017 and March 2018;
 - c) by meeting and/or making arrangements to meet on one or more occasions;
3. His behaviour as may be found proven at 1 above was conduct of a sexual nature and/or was sexually motivated.

In the notice of referral form signed by Mr Moody on 1 December 2018 Mr Moody admitted allegations 2a) and 2b). Mr Moody denied allegations 1a), 1c)i)-iii), 1d), 1e), 1f) and 3. Mr Moody made no admission or denial in relation to allegations 1b) and 2c) and made no admission as to whether the admitted facts amounted to unprofessional conduct or conduct that may bring the profession into disrepute.

Notwithstanding the admissions in the notice of referral form, comments made by Mr Moody at the outset of the hearing led the panel to believe that the admissions went to the factual elements of allegations 2a) and 2b) rather than necessarily accepting that conduct was a failure to maintain appropriate professional boundaries. As such, the panel proceeded on the basis that this was a disputed case.

Preliminary applications

There were various preliminary applications as set out below:

Application to admit additional documents

Firstly, the panel considered a preliminary application from the teacher for the admission of additional documents.

The teacher's documents were his opening statement with attachments and evidence in the form of 12 documents in support of his opening statement.

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the 'Procedures'). Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the Procedures. Nevertheless, the panel was clear that all parties had received and read the additional documents in advance of the hearing.

The panel heard representations from the teacher in respect of the application. Mr Moody submitted that he had provided the documents by the date that he had been given by the TRA in advance of the hearing.

The presenting officer did not object to the admission of the teacher's additional documents.

The panel considered the additional documents were relevant and that it was in the interests of fairness to include them at this stage. Accordingly, the documents were added to the bundle.

Application to discontinue the proceedings

The teacher made an application for there to be a discontinuance of the proceedings against him. The panel was provided with written and oral submissions from the teacher and the presenting officer.

Mr Moody submitted that it is now clear that, based on the evidence submitted by Pupil X, her parents and most recently Pupil D, it is not possible for the allegations to be

proven. Mr Moody believed that it would be entirely unfair, unfit and unsafe to continue the proceedings based on hearsay evidence alone.

The panel heard submissions from the presenting officer on the application before reaching its decision. The presenting officer stated that hearsay was not a bar to admissibility and that the parties would be given the opportunity to test the oral evidence from any witnesses in attendance, and that the panel could determine the level of weight to attach to the hearsay evidence in the bundle.

The panel considered the legal advice on paragraph 4.54 of the 2018 Procedures which enables the panel to discontinue the proceedings, at any stage, where it considers it fair and appropriate to do so.

The panel considered that, despite Mr Moody's oral and written submission on discontinuance, there was a case to answer. Notwithstanding this, the panel noted that it would need to give serious consideration to the level of weight to attach to hearsay evidence adduced as part of this hearing.

In addition, the panel noted that the Procedures give the panel discretion to discontinue the proceedings, at any stage, and that they would keep this consideration under review as the case continued.

The panel concluded that the hearing should continue at this stage and that this was fair and appropriate at this stage of the proceedings.

Application for all of the hearing to be heard in private and the teacher's name to be anonymised.

The panel considered an application from Mr Moody that the hearing should be heard in private, on the basis that his [REDACTED] has been negatively impacted by the process. The panel also considered an application from Mr Moody that his name be anonymised.

The panel heard submissions from the presenting officer on the application before reaching its decision. The presenting officer stated that, whilst there is a public interest in having hearings held in public, this should be weighed against the request from Mr Moody made on the grounds of his [REDACTED]. The presenting officer submitted that, whilst they did not agree to the entirety of the hearing being held in private, any evidence which relates to the teacher's [REDACTED] may be heard in private session.

The panel received legal advice and in accordance with paragraph 4.57 considered whether Mr Moody's request to have evidence heard in private would be necessary in the interests of justice or contrary to the public interest.

The panel concluded that parts of the hearing relating to Mr Moody's [REDACTED] and [REDACTED] should be heard in private. The panel considered that, for the areas that

legitimately related to aspects of Mr Moody's private life and personal life, there was no contrary public interest in those areas being discussed in public. The hearing was still being held in public and these were discrete and limited areas which would not undermine the public's ability to otherwise understand the case. The panel therefore granted the application for part of the hearing relating to Mr Moody's [REDACTED] to proceed in private. The panel noted its discretion to determine the issue of privacy for Mr Moody and extended this to matters relating to Mr Moody's [REDACTED].

The panel noted that it does not have the power to anonymise the teacher's name from the decision. The panel noted that it was the Secretary of State's decision whether or not to redact information and whether to anonymise Mr Moody from any resulting decision.

Application to proceed in the absence of the teacher

Mr Moody was not present on the second day of the hearing nor was he represented. Subsequent to this, there were other occasions on which Mr Moody was not in attendance throughout the hearing. The presenting officer made an application to proceed in the absence of Mr Moody.

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

The panel noted that Mr Moody 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 Moody 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 teacher was neither present nor represented.

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 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 April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Chronology and anonymised pupil list – pages 2 to 4
- Section 2: Notice of proceedings and response – pages 6 to 12
- Section 3: TRA witness statements – pages 14 to 36
- Section 4: TRA documents – pages 38 to 162
- Section 5: Teacher documents – pages 164 to 188

In addition, the panel received a supplementary bundle of documents which included:

- Section 1: Notice of proceedings – pages 2 to 12
- Section 2: TRA's application and accompanying documents – pages 14 to 25
- Section 3: Teacher's response to application – pages 27 to 32
- Section 4: Teacher's application for hearing on 15-19 November 2021 to be adjourned – pages 34 to 38.

In addition, the panel agreed to accept the following:

- 12 pages of Mr Moody's further evidence.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional documents that the panel decided to admit.

Witnesses

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

- Witness A, [REDACTED]; and
- Witness B, [REDACTED].

The panel heard oral evidence from Mr Moody and on day 3, Mr Moody confirmed that he intended to call Pupil X's [REDACTED] ('Mr X') as a witness. Mr Moody was not present for the evidence of the TRA witnesses or for the evidence of Mr X, but Mr X gave oral evidence on day 4 and was cross-examined by the presenting officer and questioned by 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.

Mr Moody commenced employment at Melior Community Academy ('the School') on 2 November 2009. Mr Moody was a Learning Manager and had direct responsibility for the day-to-day welfare of each pupil in a particular year group within the School. Mr Moody was responsible for Year 11.

On 3 November 2017, Mr Moody left the School to take up a role at an outdoor education facility. At the point of leaving, Mr Moody allegedly gave his personal email address to Pupil X and Pupil D.

On 16 November 2017, Mr Moody allegedly emailed Pupil D and asked her not to tell anyone that they had been in contact. Mr Moody later returned to the School as a learning manager, in January 2018.

On 16 April 2018, [REDACTED] reported via telephone an allegation that Mr Moody was having a relationship with a pupil. Mr Moody was present in the School reception when the allegation was reported. He took the written message to Individual C, [REDACTED]. Witness A spoke to the parent who indicated that a member of her family had overheard a discussion between two pupils concerning a relationship between Mr Moody and Pupil X.

On 18 April 2018, Pupil X and Mr Moody were spoken to separately. Both denied the allegation that they were in a relationship. On 19 April 2018 Witness A spoke to the [REDACTED] who reported the allegation; she identified the two pupils whose discussion was overheard as being Pupil A and Pupil B. Witness A spoke to each of the students and asked that they produced statements.

Later that day, Witness A spoke to Pupil X in the presence of Pupil X's [REDACTED] ('Mrs X') who denied that she was in a relationship with Mr Moody. Subsequently Pupil X was alone in the kitchenette with Witness B when she disclosed that she was in a relationship with Mr Moody, and they returned to speak with Witness A. At this stage Pupil X made disclosures about a relationship with Mr Moody and Mr Moody was

suspended. Individual C was the designated point of contact during Mr Moody's period of suspension.

On 23 April 2018, Witness A spoke to Pupil D who disclosed that she had been in email communication with Mr Moody from November 2017.

On 24 April 2018, Pupil X disclosed to Witness B that she had taken a pregnancy test the previous evening and was relieved that it was negative.

Mr Moody resigned from his position at the school on 25 April 2018.

On 26 April 2018 Witness A met with Pupil X's parents, who advised that Pupil X would not be co-operating with the police investigation.

Findings of fact

The findings of fact are as follows:

- 1. Developed and/or engaged in an inappropriate and/or sexual relationship with Pupil X between October 2017 and April 2018, including by;**
 - a) giving her your personal email address in or around October 2017;**

The panel noted the witness statement of Pupil D in relation to this allegation. Within this statement Pupil D said that she knew that Pupil X had Mr Moody's email address as she was given it at the same time as Pupil D was given it, (in October 2017). The panel noted that Pupil D was not in attendance and was not therefore able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

The panel considered Witness A's statement. In her statement, Witness A commented that she had interviewed Pupil D following a pupil report that had been conveyed to a staff member on 23 April 2018 that Mr Moody had given his mobile phone number to Pupil D when he left the School in November 2017. Within this interview, Pupil D replied that Mr Moody had not given her his number but that he had given her his personal email address in a card that he had given her upon leaving the School. This would mean that she could keep in touch with him "*like Pupil X*".

The panel considered evidence from Witness B. In her written statement and oral evidence, Witness B commented on her discussion with Pupil X on 19 April 2018. Witness B said that Pupil X had told her that when Mr Moody left employment at the School, Pupil X had arranged a meet up via email although she was unsure which email account this was through. There was no further evidence provided as to how Pupil X may have obtained an email address.

The panel considered evidence from Mr X in relation to this allegation. In Mr X's oral evidence he said that, when the allegations between Pupil X and Mr Moody had come to light, he had "*interrogated*" Pupil X's phone. Mr X stated that he had undertaken this search of Pupil X's phone himself and that his search had included her email account (which he had checked via his laptop). Mr X stated that, having reviewed Pupil X's emails, messages and photo folders, he had not seen any evidence of any communication between Pupil X and Mr Moody either on email or otherwise.

In considering this allegation, the panel also considered the card sent to Pupil D which was in the bundle and which did include Mr Moody's personal email address which Mr Moody admitted to having given her on leaving the School.

The panel did not consider that there was any evidence to suggest that this information had been replicated for Pupil X.

The panel did not find, on the balance of probabilities, that Mr Moody had provided Pupil X with his personal email address.

The panel found allegation 1a) not proven.

b) exchanging personal messages with her on one or more occasions;

The panel considered the witness statement of Pupil D in relation to this allegation. Within this statement Pupil D said that she remembered "*looking over [Pupil X's] shoulder one time that she was using WhatsApp and seeing messages between Pupil X and Mr Moody*" and that Pupil X had shown her at least 10 photos that had been sent between them. Pupil D had also stated that she could see that "*the messages had blue ticks next to them meaning Mr Moody had received them and read/opened them*". The panel noted that Pupil D was not in attendance, and was not therefore able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

The panel considered Witness A's statement within which Witness A stated that Pupil A and Pupil B had reported to her that Pupil X had been warned by Mr Moody to "*delete all messages*" following the conversation with Pupil X on 18 April 2018 and that this suggested that there were messages between them. In Witness A's oral evidence she stated that she recalled a conversation with Pupil X within which there was a suggestion that there was "*an exchange of messages and videos*" between Mr Moody and Pupil X.

Witness A submitted that on 16 November 2017, a pupil reported that Mr Moody was in personal contact with a number of [REDACTED] pupils at the School. The allegation was that he was in contact with them via social media platforms and other forms of personal contact. Mr Moody was not employed by the School during this period. Witness A had already spoken to Mr Moody by this date with regards to him coming back to the School. She emailed him to ask him whether he had been in contact with current pupils since

leaving the School. Mr Moody responded that he had not and that the allegation was untrue and he was *“saddened that anyone would think I’m that unprofessional”*. Mr Moody told Witness A that he had bumped into two pupils in a coffee shop in town one day, but that was the only contact he had had with pupils from the School since leaving on 3 November 2017.

In Mr Moody’s oral evidence he accepted there had been a message exchange with Pupil X but stated that this was via Pupil X’s [REDACTED]’s Facebook account. Mr Moody confirmed that he had received a message from Pupil X via this account and that he had responded to Pupil X directly via the same account requesting her not to contact him. The panel saw no documentary evidence of Mr Moody’s response. Mr Moody admitted therefore to having had contact with Pupil X but stated that this was initiated by Pupil X on her [REDACTED]’s Facebook account.

Mr Moody also stated that the contact related to his prospective return to the School. Although Mr Moody admitted to having had an exchange of messages, he denied that he was engaged in an inappropriate and/or sexual relationship with Pupil X. Mr Moody stated that he did not feel that this exchange of messages was inappropriate at the time because he was not employed by the School and did not yet have a formal offer to return to the School.

The panel noted Mr Moody’s explanation as to the reason for his actions as being because he wanted to return to the School. Mr Moody said he did not want to breach Pupil X’s [REDACTED]’s trust as she had shared information with him about the School and its handling of Pupil X’s [REDACTED].

The panel was satisfied that personal messages had therefore been exchanged on more than one occasion and that Mr Moody had admitted to the messages as set out above.

The panel considered that the messaging between Pupil X and Mr Moody via a social media account not only amounted to engaging in inappropriate contact but that the content was inappropriate insofar as Mr Moody requested Pupil X conceal their contact. In the emails to Pupil D, Mr Moody references having been in contact with Pupil X: *“I’ve jus messaged Pupil X she is going to explain something to u, just a concern I have”*.

The panel found that there had been an exchange of personal messages. However, the panel did not find that this was sufficient evidence of engagement in an inappropriate relationship with Pupil X.

On the balance of probabilities, the panel therefore found allegation 1b) not proven.

c) meeting with her on one or more occasions, including:-

i. at her home;

ii. in your car;

iii. by going for a picnic with her;

The panel considered the witness statement of Pupil D in relation to these allegations. Within this statement, Pupil D said that one of the photos that Pupil X had shown her was one that Mr Moody had purportedly taken of her and that this appeared to have been taken in her home, on her bed. Pupil D also said that Pupil X had told her that they had *“initially met up as friends”* and had *“kissed...in his car”*. Pupil D’s statement also stated that Pupil X had told her that she used to go to [REDACTED] for a *“picnic...with her mystery boyfriend”*.

The panel noted that Pupil D had submitted a second statement on 1 March 2023 within which she said she wanted to *“officially withdraw my original statement and replace that with this one”*. She stated that there is *“a possibility that my words were either inaccurate, unverified or taken under a time of intense pressure”*. Pupil D had requested that *“this is the only representation associated with me and my name in this process as this is the only statement I will endorse”*.

However, the panel noted that Pupil D was not in attendance (and had declined to have any further part in the proceedings) and was not therefore able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

The panel considered the School Investigation Report within which it is stated that a teacher had passed Pupil X’s house and had seen Mr Moody’s car *“parked outside the house”*. The School Investigation Report also stated, that Pupil X had alleged that Mr Moody had *“visited her at home”* and they *“had sex in his car”*.

The panel considered Witness A’s written statement. Initially, in a meeting between Witness A and Pupil X on 19 April 2018, Pupil X had denied ever having been in Mr Moody’s car and gave no response when it was suggested that they had been for picnics together. However, Witness A stated that, later that day, Pupil X had told her that she had been *“meeting up with Mr Moody, had gone out with him in his car and that they had gone on a picnic together”*. It was also stated that Pupil X had told Witness A that *“they had arranged to meet as they were communicating by text/WhatsApp and that Mr Moody had picked her up from the end of her road so that no-one saw”* and that *“they had then gone to [REDACTED] together for a picnic”*.

The panel considered Witness B’s statement within which she stated that she had seen Mr Moody’s car near Pupil X’s home address on or around 14 June 2018. In her oral evidence Witness B said that she didn’t believe she was mistaken in recognising this as being Mr Moody’s car, as she recognised the number plate from seeing the car in the School car park and the sticker on display.

Witness B also stated that Pupil X had disclosed to her that Mr Moody “*had picked her up in his car*” and would “*park around the corner from her house*” and that they would “*go out together in it*”. In Witness B’s oral evidence she stated that Pupil X had told her that Mr Moody would “*pick her up from home*”. When Witness B asked Pupil X if she and Mr Moody had had sex, Pupil X “*broke down*” and did not answer.

The panel considered Mr Moody’s oral evidence regarding the alleged sightings of his car close to Pupil X’s house. Mr Moody stated that he and his wife shared a car and that, on at least one of the occasions when his car was allegedly seen close to Pupil X’s house, he had driven to Nottingham for an interview, and another time he did not have the car because his wife (who worked close to the School at the time) had the car. Mr Moody categorically denied having visited Pupil X’s home and taking her out in his car. He said the suggestion of a picnic with her was “*nonsense*”.

The panel considered the oral evidence from Mr X within which he stated that he was “*certainly not*” aware of any journey that Pupil X and Mr Moody would have taken in Mr Moody’s car. In Mr X’s oral evidence Mr X also stated that Mr Moody had never been to Pupil X’s home and that he would be aware if this was the case.

The panel did not consider that, on the balance of probabilities, there was sufficient evidence to prove, on the balance of probabilities, that Mr Moody had met with Pupil X either at her home, in Mr Moody’s car or by going for a picnic.

The panel found allegation 1c) not proven.

d) buying her a gift on one or more occasions, including a bracelet;

The panel considered Witness B’s written statement in relation to this allegation. Within this statement, Witness B stated that when Pupil X was asked about the bracelet she was wearing and if Mr Moody had given it to her, she had said (in front of Mrs X) that Mrs X had bought it but Mrs X denied that this was the case. Witness B also stated that Pupil X had later told her in a separate meeting between the two of them that Mr Moody had bought it for her. In Witness B’s oral evidence she stated that Pupil X had been reluctant to discuss the origin of the bracelet.

In Witness A’s oral evidence she recalled Pupil X wearing a bracelet and believed that Mr Moody may have bought this for her. Witness A was unable to recall whether or not Pupil X had said anything about the bracelet.

In Mr Moody’s oral evidence he completely refuted having bought Pupil X a bracelet.

Mr X stated clearly in his oral evidence that he knew nothing of a bracelet.

The panel considered that there was evidence of the existence of Pupil X’s bracelet but was not able to find, on the balance of probabilities, that this was bought for Pupil X as a

gift by Mr Moody. The panel did not have before it sufficient evidence as to the bracelet's provenance.

The panel could not find any evidence that Mr Moody had bought Pupil X a gift on one or more occasions.

The panel found allegation 1d) not proven.

e) kissing her on one or more occasions;

The panel considered the first witness statement of Pupil D in relation to these allegations. Within this statement Pupil D said that Pupil X had told her that "*she had kissed Mr Moody first when in his car*" and that she had "*gone in to kiss him as it felt right*". As above, the panel considered the fact that Pupil D had withdrawn her original statement. The panel noted that Pupil D was not in attendance and was not therefore able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

In Mr Moody's oral evidence he completely denied having ever kissed Pupil X.

The panel was unable to find, on the balance of probabilities, that Mr Moody had kissed Pupil X on one or more occasions.

The panel found allegation 1e) not proven.

f) engaging in sexual activity with her on one or more occasions;

The panel considered the original written statement of Pupil D which stated that Pupil X had told her that she and Mr Moody had "*done sexual things whilst at [REDACTED] as well as in his car*". Also, that she had "*had sex in the woods*" "*with her boyfriend*". Similarly, Pupil A in her written statement had referred to Pupil X having said that "*they would kiss and have sex in her bed*". Also that "*Pupil X had always had a crush on Mr Moody*" and that "*lots of the girls fancied him*". However, the panel noted that Pupil D and Pupil A were not in attendance and were not therefore able to be cross-examined on their evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

In Witness A's written statement she stated that a parent had reported that pupils had been overheard discussing "*Pupil X being in a sexual relationship with Mr Moody*". She also submitted that Pupil A and Pupil B had told her that they had been told by Pupil X that she "*had sex with Mr Moody*".

In Witness B's oral evidence she stated that Pupil X had told her that Mr Moody would "*pick her up from home*" but also that when she asked her if they had had sex she "*broke*

down” and did not answer. She also stated that Pupil X had referred to being *“in a sexual relationship with Mr Moody”*.

In Mr Moody’s oral evidence he denied that he had engaged in an inappropriate and/or sexual relationship with Pupil X. Mr Moody strongly contested any suggestion of having engaged in sexual activity with Pupil X. Mr Moody strongly denied any relationship with Pupil X whether sexual or otherwise. Mr Moody, in his oral evidence, stated that he did not believe Pupil X had made such an allegation or comment because it was simply not true.

The panel heard evidence from Mr X which they considered was compelling. He explained that he had worked for years as a [REDACTED] and that he was used to [REDACTED]. He stated that, having searched Pupil X’s phone and spoken to Pupil X at length, he thought Pupil X might have had a crush on Mr Moody. Furthermore, Mr X’s evidence was that it was possible that the allegations of a sexual relationship were borne out of fantasy. He was not convinced at all that it was reciprocated and stated that he *“didn’t believe they were having a sexual relationship”*.

The panel gave close consideration to a discrepancy between the evidence of Witness A and of Mr X concerning their meeting on 26 April 2018, in particular, the suggestion from Witness A’s evidence that Mr X was condoning of a relationship between Mr Moody and Pupil X and that he had commented that Mr Moody was the first person that Pupil X had slept with. This was something that Mr X vehemently denied. The panel also noted that the contemporaneous CPOMS entry made by Witness A did not make reference to Mr X having said that Mr Moody was the first person that Pupil X had slept with. There is a clear factual discrepancy between Witness A’s and Mr X’s recollection of events. The panel preferred Mr X’s evidence in relation to the meeting on 26 April 2018.

The panel was unable to find, on the balance of probabilities that Mr Moody had engaged in sexual activity with Pupil X on one or more occasions. The panel had insufficient evidence on this point and any hearsay evidence was unable to be tested due to the absence of Pupil X, Pupil D and Pupil A.

The panel found allegation 1f) not proven.

The panel found allegation 1 in its entirety not proven.

2. You failed to maintain appropriate professional boundaries with one or more female pupils, including;

a) in or around October 2017, by giving your personal email address to them;

The panel noted the witness statement of Pupil D, who reported that before Mr Moody had left the School, she had been particularly close to him. Pupil D’s [REDACTED] at the

time was Pupil X, and as they were both close to him, when he left the School he gave them separate greetings cards. Her evidence was that Mr Moody explained that he had given his email address as a gesture of keeping in touch if anything went wrong at the school or if she wanted to continue to share things with him.

The panel noted from the evidence in the bundle that, on 16 November 2017, Pupil D received an email from Mr Moody in which he was worried about the School finding out about him being in touch with her and Pupil X. Pupil D was aware that he had been in touch with Pupil X as she had told her. Mr Moody emailed to say that if anyone at the School had asked about keeping in touch with him, she was to say that she had bumped into him at a local Costa. Mr Moody made reference to Pupil D having his number in the email; Pupil D believed he was referring to Pupil X when he said this as she did not have his mobile number and he had not offered it to her at any point. Pupil D reassured Mr Moody that she would not tell anyone that she had remained in contact with him as she did not want to risk him not coming back to the School.

Pupil D submitted that emails between Mr Moody and her continued throughout November 2017 up until 28 March 2018. Pupil D remembered Mr Moody coming back to the School in around the last week of January 2018. The emails continued once Mr Moody had come back to the School, and sometimes she would email him during the school day and he would respond.

The panel noted the email trail between Mr Moody and Pupil D and the card in the evidence bundle within which he had provided Pupil D with his personal email address. The panel also noted that Pupil D was not in attendance at the hearing to comment on the bundle evidence. As before, the panel noted that Pupil D had withdrawn her original statement.

The panel noted that within Mr Moody's response, he stated that it was unprofessional for a student to have his email address and he wholly accepts that. However, he submitted that he provided his email address as he had agreed to provide a reference. The panel also noted Mr Moody's oral evidence within which he said that "*I was not a staff member of the academy or in education therefore I was not under any Teaching terms and conditions*". Nevertheless, he accepted in retrospect that Pupil D having his email was a mistake but said that he had shared this with good intentions because "*he had worked with some pupils for many years and sincerely wanted them to all succeed*". Mr Moody maintained in oral evidence that his purpose for contacting Pupil D was to help her.

In Mr Moody's oral evidence he confirmed that his email contact with Pupil D was in relation to her requesting a job reference for a job at a bridal boutique and that "*he had not initiated the contact and that any email exchange was not malicious and not in breach of any teachers' terms and conditions*". Mr Moody confirmed that he felt that he was "*doing his bit*" because he "*knew the family*". Mr Moody stated that he did not believe that he was doing anything wrong and that he did not realise it was inappropriate at the time.

In light of the above and Mr Moody's admission to this allegation, the panel found that Mr Moody had failed to maintain professional boundaries with one or more pupils, namely by providing his personal email address to Pupil D.

The panel found allegation 2a) proven.

b) by exchanging personal messages with them on one or more occasions, including on one or more occasions between November 2017 and March 2018;

The panel considered the evidence in the bundle including Pupil D's original written statement within which she referenced "*emails between Mr Moody and I...which acted like a text message facility*". However, as before, the panel was mindful of the hearsay evidence, the fact that Pupil D was not present at the hearing, and had withdrawn her original statement.

The panel considered the evidence in the bundle in the form of a greetings card from Mr Moody to Pupil D which stated "*I cannot describe how sad I am to not see you guys every day, but I want updates*" and the fact that this message contained an "x" next to Mr Moody's name. The panel also noted several exchanges of emails between Mr Moody and Pupil D regarding his potential return to the School, and his request that she does not disclose the fact that they had been in contact. The panel noted that Mr Moody had written in his email "*if anyone asks u 2 saw me on sat at Costa near [REDACTED] and I said I was tired from my job and missed Melior*". Also he had written "*if anyone questions about u guys having my email or number whatever jus say no...a slip of th3 tongue from either of u could cost me my job!*"

The panel noted that in Witness A's oral evidence, she recalled a conversation with Pupils A and B within which they said that Pupil X had said that there had been messages and videos exchanged between her and Mr Moody. The panel noted that Pupils A and B were not present at the hearing.

As set out above in relation to allegation 1b), the panel noted Mr Moody's oral evidence where he admitted to having sent messages to Pupil X but that his evidence was that this exchange had been via Pupil X's [REDACTED]'s Facebook account.

Mr Moody stated that he did not feel that this exchange of messages was inappropriate at the time because he was not employed by the School and did not yet have a formal offer to return to the School.

The panel was satisfied that personal messages had therefore been exchanged on more than one occasion and that Mr Moody had admitted to the messages as set out above.

The panel considered that the messaging between Pupil X and Mr Moody via a social media account and emails between Mr Moody and Pupil D amounted to a failure to maintain appropriate professional boundaries.

The panel found allegation 2b) proven.

c) by meeting and/or making arrangements to meet on one or more occasions;

Whilst reference was made to a meeting having taken place between Mr Moody, Pupil X and Pupil D, the panel understood this to be a fictional encounter based on the evidence before it rather than an actual meeting.

The panel found allegation 2c) not proven.

The panel found allegations 2a) and 2b) proven and allegation 2c) not proven.

3. Your behaviour as may be found proven at 1 above was conduct of a sexual nature and/or was sexually motivated.

For the avoidance of doubt, whilst the panel did find that there had been an exchange of personal messages between Mr Moody and Pupil X, the panel did not find any part of allegation 1 proven and therefore did not go on to consider allegation 3.

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

Having found allegations 2a) and 2b) 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 Moody, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Moody 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 Moody amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Moody's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, as the panel concluded that allegations 2a) and 2b) amounted to unacceptable professional conduct, based on the particulars found proved in respect of each allegation, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

The panel noted that the allegations took place outside the education setting in that Mr Moody was communicating with pupils via his personal email address and/or on social media platforms, outside of school hours and outside of the school environment and his School employment. However, given the close proximity to Mr Moody having left the School and his clear intent to return, the panel found that this conduct was directly related to Mr Moody's profession as a teacher.

Accordingly, the panel was satisfied that Mr Moody 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 panel therefore found that Mr Moody's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 2a) and 2b) proved, the panel further found that Mr Moody'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 was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

In the light of the panel's findings against Mr Moody, which involved failing to maintain appropriate professional boundaries with one or more female pupils including giving his personal email address and exchanging personal messages on one or more occasion, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of inappropriate contact outside of school with pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Moody 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 Moody was outside that which could reasonably be tolerated.

The panel did not feel that there was a particularly strong public interest consideration in retaining the teacher in the profession, although noted that no doubt had been cast upon his abilities as an educator.

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils;
- abuse of position or trust (particularly involving pupils);
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests; and
- collusion or concealment including:
 - any activity that involves knowingly substantiating another person's statements where they are known to be false;
 - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions;
 - encouraging others to break rules; and
 - lying to prevent the identification of wrongdoing.

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

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

There was no evidence to suggest that Mr Moody was acting under extreme duress, and, in fact, the panel found Mr Moody's actions of concealment to be calculated and motivated by Mr Moody's desire to return to employment within the School.

The panel considered Witness A's comments on Mr Moody as a teacher which were positive and complimentary. The panel considered this alongside the two character references provided by former pupils in light of the hearsay advice received earlier. No

evidence was submitted to demonstrate exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector although, as before, the panel noted that Mr Moody had not otherwise had his teaching ability called into question.

Although the panel made a finding concerning Mr Moody's dishonesty in failing to maintain professional boundaries, they considered that the act of dishonesty was limited in time and scope as described in its findings of fact. Accordingly, the panel considered that the conduct found proven was at the lower end of the scale in terms of severity.

The panel noted that, during the hearing, Mr Moody had demonstrated an element of remorse and accepted that he had been dishonest. Whilst the panel took account of Mr Moody's admission to the dishonesty during the hearing, it considered that Mr Moody should continue to develop his knowledge and understanding of safeguarding procedures. An appreciation of the need to continue applying safeguarding procedures even after leaving the profession would have ensured that the proper boundaries were maintained.

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. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

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 unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has also found some of the

allegations not proven and in the case of allegation 3 the panel did not need to consider this allegation as it was tied to allegation 1. I have therefore put all those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct and/or conduct likely to bring the profession into disrepute, or a relevant conviction should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Moody 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 Moody 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 Moody, 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, "the panel's findings against Mr Moody, which involved failing to maintain appropriate professional boundaries with one or more female pupils including giving his personal email address and exchanging personal messages on one or more occasion, there was a strong public interest consideration in

respect of the protection of pupils, given the serious findings of inappropriate contact outside of school with pupils.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “The panel noted that, during the hearing, Mr Moody had demonstrated an element of remorse and accepted that he had been dishonest. Whilst the panel took account of Mr Moody’s admission to the dishonesty during the hearing, it considered that Mr Moody should continue to develop his knowledge and understanding of safeguarding procedures. An appreciation of the need to continue applying safeguarding procedures even after leaving the profession would have ensured that the proper boundaries were maintained.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “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.”

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 Moody himself. The panel comment “the panel considered that the conduct found proven was at the lower end of the scale in terms of severity.”

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

For all 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 blue ink, appearing to be 'AL C M' followed by a checkmark.

Decision maker: Alan Meyrick

Date: 29 March 2023

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