



Teaching
Regulation
Agency

[REDACTED]

and Ms Jennifer Arding: Professional conduct panel outcome

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

June 2019

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

[REDACTED]

Teacher: Ms Jennifer Arding
Teacher ref number: 1541669
Teacher date of birth: 14 April 1990
TRA reference: 17521
Date of determination: 21 June 2019
Former employer: St John's Catholic Comprehensive School, Kent

A. Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 17 to 21 June 2019 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT to consider the cases of Ms Jennifer Arding and [REDACTED]

The panel members were Ms Jean Carter (lay panellist – in the chair), Mr Ian Carter (teacher panellist) and Ms Fiona Tankard (teacher panellist).

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

The presenting officer for the TRA was Ms Holly Quirk of Browne Jacobson LLP solicitors.

[REDACTED]

Ms Arding was present and was represented by Mr Shyam Thakerar of The 36 Group.

The hearing took place in public and was recorded.

B. Allegations

The panel considered the allegations set out in Notices of Proceedings dated 18 April 2019.

[REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

- [REDACTED]

[REDACTED]

[REDACTED]

In respect of Ms Arding, it was alleged that she was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a Teacher at the St John's Catholic Comprehensive School between June 2015 and April 2018:

1. On or around 15-16 December 2017 she failed to maintain professional boundaries in respect of one or more pupils, by:
 - a. kissing and/or attempting to kiss Pupil A;
 - b. travelling with Pupil A to a colleague's home in the early hours of the morning;
 - c. staying at her colleague's home with Pupil A for some period of time;
 - d. providing Pupil A with her mobile number;
 - e. communicating with Pupil A via social media and/or by text message;
2. On or around 16 December 2017, and thereafter, she sought to conceal her and/or her colleague's behaviour in respect of information relevant to her employment as a teacher, by;
 - a. texting Pupil A "make sure that you won't say anything about last night, I could lose my job over it" or words to that effect;
 - b. texting Pupil A "and don't tell anyone you came to [REDACTED]" or using words to that effect;
 - c. texting Pupil A "If anyone says anything please just deny everything. I like my job!" or using words to that effect;
 - d. failing to report to the Designated Safeguarding Lead details of the events on the night of the 15-16 December 2017, and thereafter, including as to whether:
 - a. any inappropriate physical contact had occurred with Pupil A;
 - b. she had shared a taxi back to her colleague's house in the early hours of the morning;
 - c. she had attended a walk-in clinic in respect of these events;

3. Her conduct as may be found proven at allegation 2 above lacked integrity and/or was dishonest.
4. Her conduct as may be found proven at allegation 1 above was conduct of a sexual nature and/or was sexually motivated.

Ms Arding admitted allegations 1(a), 1(b), 1(d), 1(e), 2(a) to 2(d) and 3. Ms Arding further admitted that her conduct in relation to these admitted allegations amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Ms Arding denied allegations 1(c) and 4 and that her conduct in relation to these allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

Applications to admit additional documentation

The panel considered the following applications to admit additional documentation:

On the first day of the hearing:

1. An application by the TRA to admit a previous signed version of Ms Arding's statement of agreed and disputed facts;
2. [REDACTED]
3. A joint application by the TRA and Ms Arding to admit a statement of agreed and disputed facts signed by Ms Arding on 17 June 2019;
4. [REDACTED]
5. An application by Ms Arding to admit her witness statement dated 17 June 2019;
6. [REDACTED]
7. [REDACTED]

8.

[REDACTED]

9.

[REDACTED]

In relation to each of these applications, the panel had careful regard to the parties' submissions and accepted the legal advice provided.

Having considered the parties' applications, the panel decided to admit the documents identified in numbered paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 above.

There was no dispute as to the fact that these documents were relevant to the issues to be determined by the panel. It was also appropriate to admit the documents in the interests of fairness. There was no objection to the admission of the documents. It was regrettable, particularly in relation to those documents that were introduced after the first day of the hearing that the documents had not been made available at an earlier stage. However, there was an explanation in each instance and the panel concluded that it was appropriate that they be admitted.

These documents were added to the case papers, marked pages 339 to 364 in the order set out above.

However, in relation to the first document identified above, the panel did not consider it was appropriate for it to be admitted.

The panel took account of the submission made by the presenting officer that Ms Arding had made fuller admissions in the original, signed statement of agreed and disputed facts such that the document was relevant and ought to be explored.

However, the panel noted the explanation put forward on behalf of Ms Arding as to why she subsequently changed her position, on advice. In summary, it was submitted that she had signed the original version in error and that the later version was consistent with her witness statement. It was apparent that the TRA was notified of Ms Arding's change of position within a short period of time and the previous version had never been admitted in evidence.

The panel considered that it would be unfair, in those circumstances, to admit this document.

Application to exclude part of Individual C and Individual D's witness statements from the evidence

The panel considered an application, made jointly by the TRA and [REDACTED] to exclude certain passages from the witness statement of Individual C and Individual D.

The relevant passages from Individual C's evidence were:

- Paragraphs 3 to 5;
- The second sentence in paragraph 16;
- Part of the final sentence in paragraph 24 after the word '*drunkest*';
- Part of the first sentence in paragraph 27 after the word '*odd*'; and
- The words '*first and had*' in the final sentence of paragraph 55.

The relevant passages from Individual D's statement were:

- Paragraphs 5 to 7;
- Part of the first sentence in paragraph 12 after the word '*rumour*'; and
- Part of the first sentence in paragraph 16 after the word '*Arding*'.

Both parties submitted that these passages were irrelevant and/or prejudicial.

Having carefully considered the parties' submissions and the legal advice provided, which was accepted, the panel agreed. In light of the specific allegations against [REDACTED] and Ms Arding, the passages in question were irrelevant and prejudicial and ought to be excluded.

Application for Individual C to give evidence by video/Skype link

An application was made by the TRA for Individual C to give evidence by way of video link/Skype. The panel was informed that Individual C was in Italy on a school trip.

No objection to the application was raised on behalf of [REDACTED] or Ms Arding.

In light of the parties' submissions and the legal advice provided, which was accepted, the panel agreed to the application.

Whilst it was regrettable that Individual C was not able to attend the hearing in person, particularly as he had been given prior notice of it, the panel considered that fairness to the parties and the interests of justice were such that it was acceptable to hear from him in the manner proposed.

Whilst the arrangements proposed were not ideal, the panel considered that it was better to hear from Individual C by video link/Skype than not at all.

There was no prejudice to [REDACTED] and Ms Arding having regard to the fact that they did not object to the application, the nature of Individual C's evidence and the extensive admissions made by [REDACTED] and Ms Arding.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 2 to 3

Section 2: Notices of Proceedings and Responses – pages 5 to 17

Section 3: Teaching Regulation Agency witness statements – pages 19 to 38

Section 4: Teaching Regulation Agency documents – pages 40 to 307

Section 5: [REDACTED]

Section 6: Ms Arding's documents – page 309

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

In addition, the panel agreed to accept the documents identified in section C, above, which were added to the hearing bundle at pages 310 to 364.

Witnesses

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

- Individual C, [Redacted] and
- Individual D, [Redacted]

[Redacted] and Ms Arding both gave evidence. In addition, [Redacted] Individual A gave evidence on her behalf.

E. Decision and reasons

The panel announced its decision and reasons as follows:

Introduction

The panel has carefully considered this case and reached a decision by reference to each teacher.

At the relevant time for the purposes of these proceedings, [Redacted] and Ms Jennifer Arding were both employed as teachers at St John's Catholic School ("the School").

[Redacted]

Ms Arding commenced employment at the School on 29 June 2015 for her NQT year. She worked as a religious education teacher and was also deputy head of year.

On the evening of 15 December 2017, Ms Arding, [Redacted] and Pupil X, a former pupil at the School and [Redacted] together attended the Casino Rooms Nightclub in Rochester ("the Nightclub").

Events of that evening and the early hours of 16 December 2017, together with [Redacted] and Ms Arding's actions following these events, were the subject of the allegations set out in Notices of Proceedings sent to Ms Arding and [Redacted] dated 18 April 2019.

In summary, it was alleged that, whilst at the Nightclub, Ms Arding kissed Pupil A and that, at the end of the evening, Ms Arding, [Redacted] and Pupil A travelled by taxi [Redacted], where it was alleged they all stayed.

Pupil A was, at the time, a pupil [Redacted] at the School. [Redacted].

[Redacted]

[Redacted]

Thereafter, further, independent reports were received by the School as to the alleged conduct of [Redacted] and Ms Arding.

[Redacted]

[Redacted]

No formal action was taken by the School in response to these reports and on 9 April 2018 Ms Arding submitted her resignation and immediately ceased working at the School.

However, on 14 April 2018, a member of staff at the School was informed by a [Redacted] pupil about the possible existence of a video recording of Ms Arding and Pupil A taken at the Nightclub.

On 19 April 2018, two students also disclosed information that they claimed had been relayed to them by Pupil A regarding Ms Arding.

As a result, Pupil A was interviewed on 19 April 2018 by the School and was asked about these matters. A further meeting took place with Pupil A, at which his mother was present, on 20 April 2018.

As a result of these disclosures and the information provided by Pupil A, a formal investigation was commenced by the School and Individual C was appointed as investigating officer.

At the conclusion of the investigation, a report was produced, which was included in the hearing papers, and disciplinary processes were commenced against [Redacted] and Ms Arding, notwithstanding the latter's resignation.

[Redacted]

Ms Arding and [Redacted] were subsequently referred to the TRA.

Evidence

The panel read all the documents provided in advance of the hearing together with the additional documents that were admitted subsequently.

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

- Individual C, [Redacted] and
- Individual D, [Redacted]

Individual C and Individual D were not able to give first-hand evidence of the key factual matters central to the allegations in this case. However, the panel considered that both Individual C and Individual D were credible witnesses and gave clear evidence which was helpful in terms of the wider context and assisted the panel's consideration of the evidence.

The panel was also referred to the hearsay accounts of other individuals who were involved in the initial enquiries undertaken and/or the subsequent investigation.

In particular, notes of interviews/meetings conducted with Pupil A, Pupil B, Pupil X and Pupil Z were included within the hearing papers and addressed events on 15/16 December 2017 and subsequently.

In the absence of hearing from these individuals and being able to test their accounts, this evidence was treated with extreme caution.

Where such evidence was relied upon, it is addressed in our reasons, below. In assessing what weight to attach to this hearsay evidence, the panel considered all of the circumstances, including the extent to which it was supported or contradicted by other oral and documentary evidence in this case.

The panel also heard oral evidence from [Redacted] Ms Arding and [Redacted] Individual A.

Both [Redacted] and Ms Arding had made extensive admissions in statements of agreed/disputed facts introduced at the outset of the hearing.

The panel considered that both [Redacted] and Ms Arding were also, in some respects, credible witnesses. Their evidence was, at times, candid. However, at other times, their evidence was evasive and not credible and the panel had particular concerns regarding whether their memories of events on 15/16 December 2017 were as poor as they sought to portray and in relation to their purported attendance at a walk-in clinic on 16 December 2017.

In relation to Individual A, the panel accepted his evidence in relation to his recollection of the events in the early hours of the morning on 16 December 2017. In other respects, his evidence was vague and unclear.

Where there was a factual dispute in relation to a specific allegation, the panel addresses below where the evidence of one witness was preferred over that of another.

The panel confirmed that it had not relied upon any findings made, or opinions expressed, during the earlier investigation and disciplinary processes conducted by the School. The panel formed its own, independent view of the allegations based on the evidence presented.



Findings of fact

Prior to addressing the specific allegations before the panel in relation to [Redacted] and Ms Arding, the panel considered it would be helpful to set out, by way of introduction and to avoid duplication, findings of fact that were relevant to both teachers.

Pursuant to the respective statements of agreed/disputed facts there was no dispute as to the fact that:

- ✓ [Redacted] and Ms Arding both attended the Nightclub on the evening of 15 December 2017 together with Pupil X.
- ✓ Whilst at the Nightclub, they met a group of ex-[Redacted] pupils.
- ✓ Pupil A and Pupil B (both pupils at the School at the time) were also present in the Nightclub.
- ✓ Ms Arding and [Redacted] consumed alcohol throughout the evening.
- ✓ During the course of the evening, Ms Arding and [Redacted] conversed and danced with the pupils, including Pupil A.
- ✓ At some point in the evening, Ms Arding and Pupil A kissed on at least one occasion.
- ✓ Ms Arding and [Redacted] left the Nightclub at approximately 3am.

- On leaving the Nightclub, [REDACTED] and Ms Arding took a taxi to a location near or outside [REDACTED]
- Pupil A was present in this taxi.

Both Ms Arding and [REDACTED] stated that they had not drunk excessively on 15 December 2017. They both suggested that their drinks may have been 'spiked' during the course of the evening. Ms Arding claimed to have no memory of arriving at the Nightclub or subsequently until the following morning. [REDACTED]

However, there was no corroborating evidence to support the contention that their drinks had been 'spiked' or that they had been adversely affected by anything other than the alcohol they had consumed.

First, whilst [REDACTED] and Ms Arding both stated that, given their concerns, they had attended a walk-in clinic on the morning of 16 December 2017, they declined the option of having blood tests. There was accordingly no medical evidence to support their belief. They did not report their concerns to anyone else and they declined to obtain evidence of their attendance at the clinic.

Secondly, given the evidence as a whole, the panel concluded that it was unlikely that their drinks had been spiked. Whilst the panel did not hear first-hand evidence from any of the pupils and former pupils present on the evening in question, their written accounts were consistent and corroborative in describing [REDACTED] and Ms Arding as being drunk in fairly prosaic terms.

Thirdly, the evidence of alleged memory loss was unsatisfactory. [REDACTED]

[REDACTED] Both [REDACTED] and Ms Arding also appeared to have a definite recollection of Pupil A's presence in the taxi, despite suggesting their memory loss continued until they awoke.

Whilst there was no categorical evidence as to precisely how much alcohol [REDACTED] and Ms Arding had consumed, at the very least it was accepted they had consumed wine and, it was likely, some vodka prior to leaving [REDACTED], at least one drink at the first venue they went to and at least one drink when they arrived at the Nightclub.

The panel therefore concluded, on balance, that they were under the influence of alcohol. It could not be satisfied that they were also under the influence of any other substance as there was no evidence to support this. The panel concluded that [REDACTED] and Ms Arding were adversely affected by whatever quantity of alcohol they had drunk and that they could appropriately be described as intoxicated. Both suggested that they were not

big drinkers and the quantity of alcohol they consumed, even on their own evidence, was not insignificant and was of a level that it was likely to have had an effect on them.

In terms of the chronology of events, there was a dispute as to whether Pupil A entered [REDACTED] at the conclusion of the shared taxi journey. This is addressed pursuant to [REDACTED] allegation 1(c), in relation to Ms Arding, below.

When they subsequently awoke on the morning of 16 December 2017, it was clear that Pupil A was not present in the house.

Ms Arding and [REDACTED] gave evidence that due to their alleged lack of memory loss, the way they both felt and having been prompted to do so by Individual A, they attended a walk-in clinic.

As noted above, on their version of events they did not undertake blood tests at the clinic, which they accepted they could have done, on the basis that they had made plans to attend a flower arranging workshop later that day.

Following the flower arranging workshop, [REDACTED] and Ms Arding went to visit Pupil X who was working in a store nearby.

Ms Arding stated that she was informed by Pupil X, [REDACTED] that Ms Arding had kissed Pupil A the previous night.

[REDACTED]

Whilst the panel did not hear from Pupil X, the notes of her meeting with Individual C appeared to refer clearly, at various points, to her first-hand knowledge of events at the Nightclub and the fact that Ms Arding had kissed Pupil A. She also confirmed that in a text message sent to [REDACTED] "I saw [Ms Arding] kissing Pupil A".

[REDACTED]

There was accordingly conflicting evidence as to precisely what was said on the afternoon of 16 December 2017. However, it was clear from the evidence, and the panel found as a matter of fact, that it was known to [REDACTED] and Ms Arding by the afternoon of 16 December 2017, at the latest, that there were at least rumours that Ms Arding had kissed Pupil A. Given her evidence, the panel also concluded that Ms Arding had taken Pupil X's comments to mean that she had kissed Pupil A.

The panel also concluded that, by this stage, both Ms Arding and [REDACTED] were aware that they had shared a taxi back or near to [REDACTED]. This was shown

by a text message sent by Ms Arding to Pupil X on the morning of 16 December 2017. Ms Arding and [REDACTED] both stated that they had a general, non-specific awareness that Pupil A may have been in the taxi with them, though their evidence on this point was vague and undermined by the definitive nature of the message sent. It was suggested, and not challenged by [REDACTED] that they both had input into these messages that were sent to Pupil A, which the panel accepted. No questions were asked of Pupil A in the message. On the contrary, there was a specific reference to the fact that he had returned with them. In those circumstances, the panel was sceptical of [REDACTED] and Ms Arding's evidence that they had only a limited, trace memory of this.

The third allegation in relation to both teachers was that their conduct in relation to the second allegation was dishonest and/or lacked integrity.

In determining whether any proven conduct was dishonest, the panel considered each teacher's state of knowledge or belief as to the facts before determining whether their conduct was dishonest by the standards of ordinary decent people.

As regards lack of integrity, the panel had regard to the decision of the Court of Appeal in *Wingate v SRA; SRA v Mallins* [2018] EWCA Civ 366. The panel recognised that professional integrity denotes adherence to the standards of the profession and the panel therefore considered whether, by their actions, the teachers had failed to adhere to those standards.

In relation to the specific allegations made against each teacher, our findings are as follows.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

In respect of Ms Arding:

1. On or around 15-16 December 2017 you failed to maintain professional boundaries in respect of one or more pupils, by:

a. kissing and/or attempting to kiss Pupil A;

Ms Arding admitted the facts of allegation 1(a) .

Ms Arding accepted that, whilst at the Nightclub on the evening of 15 December 2017, she kissed Pupil A on one or more occasions. Her position was that Pupil A instigated the kiss or kisses that they shared. In her witness statement to the panel, Ms Arding stated:

"Although Pupil A and I shared a kiss, it was not my intention for this to happen. It is clear from talking to others who were present on the night that Pupil A instigated the kiss and was attempting to kiss others present that evening. As I had consumed some alcohol on the night, I did not successfully stop this from happening and accept that this falls far below any professional standards expected from myself or indeed any teacher."

The panel did not hear oral evidence from Pupil A or anyone else with first-hand memories of events at the Nightclub on 15 December 2017, including Ms Arding and [REDACTED] who asserted they had no memory of what occurred. The panel was, accordingly, unable to resolve how many times Ms Arding and Pupil A may have kissed, although the evidence suggested that it was likely to have been twice. The video recording shown to the panel was brief and only assisted to a limited extent.

However, given Ms Arding's clear admission, which was consistent with the evidence, the panel was satisfied that Ms Arding did kiss Pupil A on at least one occasion.

In so acting, the panel concluded that Ms Arding had failed to maintain professional boundaries. Her actions were highly inappropriate and went far beyond what was appropriate as regards interactions between a teacher and a pupil. However much alcohol Ms Arding may have consumed, which was unclear in any event, she remained responsible for her actions.

The panel therefore found allegation 1(a) proven on that basis.

b. travelling with Pupil A to a colleague's home in the early hours of the morning;

Ms Arding admitted allegation 1 b .

Whilst Ms Arding had no recollection of events and could not recall the journey from the Nightclub, she accepted it was more likely that not that Pupil A was in a taxi with her and [REDACTED] and that they travelled to an area in the vicinity of [REDACTED]

Ms Arding also accepted that, by acting in this way, she failed to maintain professional standards and boundaries in respect of Pupil A.

The panel agreed and concluded that the evidence before it was consistent with Ms Arding's admissions.

It therefore found allegation 1(b) proven.

c. staying at your colleague's home with Pupil A for some period of time;

Ms Arding denied allegation 1(c).

For the reasons set out above in relation to the panel's findings as regards allegation 1(b) in relation to [REDACTED] the panel was not satisfied that the TRA had proven, to the requisite standard, that Pupil A had stayed at [REDACTED] for any period of time.

The panel therefore found allegation 1(c) not proven.

d. providing Pupil A with your mobile number;

e. communicating with Pupil A via social media and/or by text message;

Ms Arding admitted allegations 1(d) and 1(e).

Ms Arding accepted that she messaged Pupil A via social media, namely Instagram, and provided him with her mobile telephone number, for the purposes of communicating via text message. Ms Arding admitted that she subsequently messaged Pupil A via text message 3 or 4 times on 16 December 2017. She stated:

"There is no excuse for this behaviour. It occurred out of a moment of blind panic in not knowing what had happened the night before and an intense feeling of dread. It was naïve and unprofessional behaviour."

A copy of the messages sent to Pupil A by Ms Arding were included in the hearing papers.

In light of Ms Arding's admissions, which were consistent with the evidence, the panel found allegations 1(d) and 1(e) proven. Whilst the panel took into account that there may be limited occasions when a teacher could reasonably provide their contact details to a pupil and communicate in relation to school business, this was not such an occasion. The reasons for Ms Arding's conduct and the nature of it were such that Ms Arding had failed to maintain professional boundaries with Pupil A.

2. On or around 16 December 2017, and thereafter, you sought to conceal your and/or your colleague's behaviour in respect of information relevant to your employment as a teacher, by;

- a. **texting Pupil A "make sure that you won't say anything about last night, I could lose my job over it" or words to that effect;**
- b. **texting Pupil A "and don't tell anyone you came to [REDACTED]" or using words to that effect;**
- c. **texting Pupil A "If anyone says anything please just deny everything. I like my job!" or using words to that effect;**

Ms Arding admitted allegations 1(a) to 1(c).

Ms Arding accepted that she sent the text messages in question and a copy of the exchange was included in the hearing papers.

Ms Arding also admitted that she did so with the purpose of requesting that Pupil A not disclose events to anyone, as illustrated by the content of the messages.

She accordingly accepted that her intention was to seek to conceal information regarding her behaviour and that of [REDACTED] and that this was relevant to her employment as a teacher.

Ms Arding's evidence was that she did so out of fear of the potential repercussions of her behaviour. In her witness statement to the panel she stated that:

"I knew the consequences of the night before could be bad and wanted to prevent it from getting that far.

...

I accept that this was an incredibly unprofessional decision. I should not have asked [Pupil A] to keep it a secret."

In light of Ms Arding's admissions, which were consistent with the evidence, the panel found allegations 2(a), 2(b) and 2(c) proven.

- d. **failing to report to the Designated Safeguarding Lead details of the events on the night of the 15-16 December 2017, and thereafter, including as to whether:**
 - a. **any inappropriate physical contact had occurred with Pupil A;**
 - b. **you had shared a taxi back to your colleague's house in the early hours of the morning;**
 - c. **you had attended a walk-in clinic in respect of these events;**

Ms Arding admitted allegations 2(d)(a) to 2(d)(c).

Ms Arding accepted that, following the events of 15/16 December 2017 she did not disclose what had occurred or any concerns she had about these events. In particular, Ms Arding acknowledged that she did not disclose:

- The fact that she had any inappropriate contact with Pupil A;
- That she and [REDACTED] had shared a taxi back to [REDACTED] with Pupil A, in the early hours of 16 December 2017; and
- That she and [REDACTED] had attended a walk-in clinic in respect of these events.

In relation to allegations 2(d)(a) and 2(d)(b), the panel considered that Ms Arding had ample opportunity to make an appropriate disclosure and did not do so.

By failing to report these matters, she had sought to conceal her own and [REDACTED] behaviour in respect of information that was relevant to their employment as teachers.

The panel therefore found allegations 2(d)(a) and 2(d)(b) proven.

However, in relation to allegation 2(d)(c), for the same reasons as set out above in relation to [REDACTED] and notwithstanding Ms Arding's admission, the panel concluded that there was no duty to report the fact that she had attended a walk-in clinic to the designated safeguarding lead.

For this reason the panel found allegation 2(d)(c) not proven.

3. Your conduct as may be found proven at allegation 2 above lacked integrity and/or was dishonest.

Having found the facts of allegation 2(a), 2(b), 2(c), 2(d)(a) and 2(d)(b) proven, the panel went on to consider whether Ms Arding's conduct was dishonest and/or lacked integrity.

Ms Arding accepted that her conduct in relation to each of these allegations was dishonest and lacked integrity. In her witness statement Ms Arding stated:

"I accept that my behaviour as admitted in allegation 2 is dishonest and lacked integrity. It falls far below the standards I have for myself and I will always regret how the events played out."

The panel agreed. In light of her clear admissions and the evidence, the panel was satisfied that, in relation to these allegations, Ms Arding's conduct was dishonest by the standards of ordinary decent people. She had a duty to report these matters. The panel concluded that she knew, or ought to have known what was required of her and failed to act accordingly. Her actions were also deliberate. The panel also concluded that, by her actions, Ms Arding had failed to adhere to the ethical and professional standards of her profession.

The panel therefore found allegation 3 proven in relation to Ms Arding's conduct in allegations 2(a), 2(b), 2(c), 2(d)(a) and 2(d)(b).

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

Having found the facts of allegations 1(a), 1(b), 1(d) and 1(e) proven the panel went on to consider whether Ms Arding's conduct in relation to those allegations was of a sexual nature and/or sexually motivated.

On behalf of the TRA it was submitted that, certainly in relation to allegation 1(a), both of these limbs were established, in particular on the basis of:

- the nature of the act of kissing;
- the fact that it happened, in all likelihood, at least twice;
- the hearsay account of Pupil B, which referred to Pupil A and Ms Arding "*in a firm embrace and kissing passionately*", stated that this lasted "*for a few minutes*" and referred to how "*their arms were wrapped around each other ... and were full on kissing*";
- the hearsay account of Pupil X; and
- the nature of the video recording shown to the panel.

Ms Arding denied that her conduct was of a sexual nature in any respect or that it was sexually motivated.

Ms Arding provided the following account:

"Although Pupil A and I shared a kiss, it was not my intention for this to happen. It is clear from talking to others who were present on the night that Pupil A instigated the kiss and was attempting to kiss others present that evening. As I had consumed some alcohol on the night, I did not successfully stop this from happening Had I been in a clear state of mind this would never have happened. It is not something I wanted to happen or remember happening"

On her behalf it was submitted that, in the absence of pre-meditation on the part of Ms Arding, the conduct could not be described as being of a sexual nature.

However, given the various accounts of the incident or incidents, the panel did not accept this submission.

Kissing of the kind described in this instance could only properly be described as being of a sexual nature. Given the specific circumstances, the panel concluded that Ms Arding's conduct in relation to allegation 1(a) was, therefore, of a sexual nature.

However, the panel did not consider that Ms Arding's conduct in relation to allegations 1(b), (d) and (e) was of a sexual nature.

In relation to allegation 1(b), Ms Arding stated that, whilst she had no recollection of events, she did not believe that there would have been any intention to invite Pupil A into [Redacted].

The panel accepted this.

The panel also accepted that, in relation to allegations 1(b), (d) and (e), there was no evidence to support the contention that Ms Arding's conduct was sexually motivated. Whilst this allegation was not expressly withdrawn, it was not pursued with any vigour on behalf of the TRA.

In relation to allegation 1(a) and whether Ms Arding's conduct was sexually motivated, her position was that:

"The kiss that occurred ... was a spontaneous moment of stupidity. There was no build up to it. At no point had I contacted this student and given him any impression that I wanted this to happen. From my perspective there never would have been any further contact of this nature."

However, in cross-examination, Ms Arding accepted that she did not reject Pupil A's advances and that kissing was, in general terms, a sexual act in terms of how it might have been perceived by others.

Having carefully considered the parties' submissions and all of the evidence in relation to this allegation, the panel was not persuaded that the TRA had proven to the requisite standard that Ms Arding's conduct in kissing Pupil A was sexually motivated.

The panel concluded that:

- Ms Arding was clearly intoxicated and the panel was persuaded that she was not properly in control. Whilst she remained responsible for her actions, this negated a sexual motive.
- There was no evidence that Ms Arding had a particular interest in Pupil A and it appeared nothing happened over and above the kissing in the Nightclub.
- There was no pre-planning or pre-meditation. There was no evidence of any flirtatious behaviour on the part of either party in advance of their kissing.

It therefore concluded that Ms Arding's actions were not done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

On that basis and for the above reasons, the panel finds allegation 4 proven only in relation to allegation 1(a) being conduct of a sexual nature.

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Findings as to unacceptable professional conduct and conduct that may bring the profession into disrepute in respect of Ms Arding

Having found allegations 1(a), 1(b), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d)(a), 2(d)(b), 3 (in part) and 4 (in part) proven, the panel went on to consider whether the facts of those proven 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 Ms Arding in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considered that by reference to Part Two, Ms Arding was in breach of the following standards:

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

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

The panel also considered whether Ms Arding's conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Ms Arding amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession, which she accepted. The panel's findings were serious and included a failure to maintain professional boundaries, a lack of integrity, dishonesty and conduct of a sexual nature with an 18 year-old pupil.

The panel noted that some of the allegations took place outside of the education setting. However, the conduct concerned pupils and former pupils of the School such that Ms Arding's conduct did relate to her practice as a teacher.

Accordingly, the panel was satisfied that Ms Arding was guilty of unacceptable professional conduct.

In relation to whether Ms Arding's conduct may bring the profession into disrepute, 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 took account of the uniquely influential role that teachers can hold in pupils' lives and that pupils must be able to view teachers as role models in the way they behave.

The findings of misconduct were serious and the conduct displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

In conclusion, having found the facts of allegation 1(a), 1(b), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d)(a), 2(d)(b), 3 (in part) and 4 (in part) proven, the panel found that Ms Arding's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

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Panel's recommendation to the Secretary of State in respect of Ms Arding

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, the panel considered 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 considered whether it was an appropriate and proportionate measure, and whether it was in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel noted 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.

In light of the panel's findings against Ms Arding, which involved a failure to maintain professional boundaries, a lack of integrity, dishonesty and conduct of a sexual nature with an 18 year-old pupil, there was a public interest consideration in respect of the protection of pupils and other members of the public. However, in the particular circumstances of this case the panel determined that the risk of repetition was low. On this basis, the panel concluded that this was not a strong public interest consideration in this case.

However, the panel did consider that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Arding were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel also considered there was a strong public interest consideration in declaring proper standards of conduct in the profession. The conduct found against Ms Arding was outside that which could reasonably be tolerated.

The panel also considered that there was a strong public interest in retaining Ms Arding in the profession. No doubt was cast upon her abilities as an educator, indeed the converse was true. The panel was presented with positive evidence about her prior practice and abilities as a teacher. The panel did consider that, in time and should she wish to return to the classroom, Ms Arding would be able to make a valuable contribution to the profession. Individual C and Individual D both described Ms Arding in positive terms.

In view of the 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 Ms Arding.

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 Ms Arding.

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

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- dishonesty; and
- actions that were of a sexual nature.

Even though there were behaviours that would point to the appropriateness of a prohibition order, the panel considered whether or not there were sufficient mitigating factors to militate against the appropriateness and proportionality of a prohibition order, particularly taking into account the nature and severity of the behaviour in this case.

In light of the panel's findings, it considered that the following mitigating factors were present in this case:

- Ms Arding had an otherwise unblemished record. There was no evidence that Ms Arding had been subject to any previous regulatory or disciplinary proceedings. There was no evidence of any prior complaints in relation to her conduct.
- The panel was presented with positive evidence of Ms Arding's character and teaching practice, as noted above.
- Ms Arding had engaged with the TRA and attended to give evidence. She had made extensive admissions.
- The events which led to her appearing before the panel started on a night out when she was not acting in the course of her duties. She was intoxicated and the panel accepted that Ms Arding's subsequent actions came from panic and fear for her job. Whilst she was not acting under duress and she was of course responsible for her actions, the panel considered that the conduct could properly be characterised as a one-off episode. The panel also accepted that her actions were out of character.
- The panel considered that Ms Arding had demonstrated clear insight into her failings and shown regret and remorse. There was no evidence of any attitudinal problem. She had shown deep regret for her actions and fully accepted the consequences of her actions.

- Given the panel's characterisation of the conduct and the evidence presented in mitigation, the panel concluded that the risk of repetition was low.
- Ms Arding showed a clear passion for teaching and a desire to return to the classroom.

Weighed against this, the aggravating features in this case were that:

- Ms Arding's actions were deliberate and she was not acting under duress.
- In relation to her failure to report matters, she had an obligation to act appropriately and had ample opportunity to do so.
- She had an obligation to act as a role model and she failed in her duties in that regard.
- The panel concluded that Ms Arding had instructed a pupil to deny knowledge of events, which was a serious matter.
- She had engaged in conduct of a sexual nature with an 18 year-old pupil.
- Ms Arding's actions amounted to a clear breach of the Teachers' Standards.

The panel was also invited to take account of medical evidence and the fact that Ms Arding had suffered and had personal difficulties since leaving the School. It was not suggested that this had any impact in relation to her actions or lessened the seriousness of her conduct; however, the panel did accept that events had severely impacted upon Ms Arding.

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.

Having carefully considered the circumstances of this case and taking into account the mitigating evidence presented, the panel was of the view that, applying the standard of the ordinary intelligent citizen, recommending no prohibition order would not be a proportionate and appropriate response. Recommending that the publication of adverse findings would be sufficient in this case would unacceptably compromise the public interest considerations present, despite the severity of consequences for Ms Arding of prohibition.

The panel was of the view that prohibition would be both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Ms Arding. The panel's findings in relation to Ms Arding's dishonesty and lack of integrity were a significant factor in forming that opinion. She had also engaged in an act of a sexual nature with a pupil. Whilst she was intoxicated at the time, she remained

responsible for her actions and this was completely unacceptable conduct. Whilst she had not reported matters due to panic or fear for her job, that did not excuse or diminish the seriousness of her behaviour. In this regard, she had chosen to serve her own interests over her duties as a professional.

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

The Advice indicates that there are behaviours that, if proven, would militate against the recommendation of a review period. These behaviours include serious dishonesty and serious sexual misconduct. In the circumstances of this case, the panel did not consider that Ms Arding's conduct could properly be categorised as serious dishonesty or serious sexual misconduct.

Having considered the mitigating features set out above, the panel concluded that its findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period.

Ms Arding had been severely punished for her conduct and it was clear that her actions continue to impact upon her. She had shown clear regret and remorse and insight into the consequences of her actions. Ms Arding was emotional and had clearly demonstrated that she understood she had let herself and the profession down. She showed a longstanding passion for teaching and the panel considered that she would add considerably to any school she may eventually work in.

For these reasons the panel concluded that a review period of 2 years was proportionate and would enable Ms Arding to continue the process of rehabilitation and demonstrate that she had gained full insight into the nature and effect of her conduct.

Decision and reasons on behalf of the Secretary of State in respect of Mrs Arding

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, or only proven in part. I have therefore put those matters found not proven entirely from my mind.

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

In particular, the panel has found that Ms Arding is in breach of the following standards:

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

The findings of misconduct are particularly serious as they include a finding of dishonesty and lack of integrity as well as sexual misconduct.

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 Ms Arding, and the impact that will have on her, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children. The panel has observed, "The panel concluded that Ms Arding had instructed a

pupil to deny knowledge of events, which was a serious matter and had engaged in conduct of a sexual nature with an 18 year-old pupil.”

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, “She had shown clear regret and remorse and insight into the consequences of her actions. Ms Arding was emotional and had clearly demonstrated that she understood she had let herself and the profession down. She showed a longstanding passion for teaching and the panel considered that she would add considerably to any school she may eventually work in.”

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe that it, “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 took account of the uniquely influential role that teachers can hold in pupils’ lives and that pupils must be able to view teachers as role models in the way they behave. The findings of misconduct were serious and the conduct displayed would likely have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

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

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

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

I have also considered the impact of a prohibition order on Ms Arding herself. The panel says, “No doubt was cast upon her abilities as an educator, indeed the converse was true. The panel was presented with positive evidence about her prior practice and abilities as a teacher. The panel did consider that, in time and should she wish to return to the classroom, Ms Arding would be able to make a valuable contribution to the profession.”

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

In this case, I have placed considerable weight on the panel's comments concerning its "findings in relation to Ms Arding's dishonesty and lack of integrity.... And that she had also engaged in an act of a sexual nature with a pupil." I have noted that the panel did not consider that either the dishonesty or sexual misconduct were of the most "serious" type.

I have given less weight in my consideration of sanction therefore, to the contribution that Ms Arding has made to the profession. In my view, it is nonetheless necessary to impose a prohibition order in order to maintain public confidence in the profession.

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

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

I have considered the panel's comments, "a review period of 2 years was proportionate and would enable Ms Arding to continue the process of rehabilitation and demonstrate that she had gained full insight into the nature and effect of her conduct."

I consider that a 2 year review period is a proportionate period to achieve the aim of maintaining public confidence in the profession.

This means that Ms Jennifer Arding is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. She may apply for the prohibition order to be set aside, but not until 27 June 2021, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If she does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Ms Jennifer Arding remains prohibited from teaching indefinitely.

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

Ms Jennifer Arding has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this order.



Decision maker: Alan Meyrick

Date: 25 June 2019

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