



Teaching  
Regulation  
Agency

# **Ms Elisa Attina: Professional conduct panel outcome**

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

**September 2023**

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

<b>Teacher:</b>	Ms Elisa Attina
<b>TRA reference:</b>	19306
<b>Date of determination:</b>	26 September 2023
<b>Former employer:</b>	Ernest Bevin College, London

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 28 to 30 November 2022, 3 May, 9 to 10 May and 26 September 2023 by way of a virtual hearing, to consider the case of Ms Elisa Attina.

The panel members were Mrs Julie Beck (lay panellist – in the chair), Mrs Christine McLintock (teacher panellist) and Mr Aidan Jenkins (teacher panellist).

The legal adviser to the panel was Ms Abigail Trencher of Birketts LLP solicitors.

The presenting officer for the TRA was Mr James Lloyd of Mountford Chambers, instructed by Kingsley Napley solicitors.

Ms Attina was present and was represented by Ms Melanie Williamson of St. Phillips Chambers, instructed by Thompsons Solicitors.

The hearing took place by way of a virtual hearing in public, apart from the duration of the hearing during which Pupil A gave evidence, which was heard in private session. Both open and private sessions were recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 22 September 2022.

It was alleged that Ms Attina was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute whilst employed as a teacher at Ernest Bevin College ('the School'), in that:

1. On unknown dates prior to 23 March 2019, she had an inappropriate relationship and/or contact with Pupil A;
2. On unknown dates prior to 23 March 2019, she had inappropriate contact with Pupil A via social media;
3. On unknown dates prior to 23 March 2019, she told Pupil A to delete one or more messages sent between her and Pupil A on social media;
4. On or around 19 March 2019, she allowed Pupil A to visit her home;
5. On or around 19 March 2019, she kissed Pupil A;
6. On unknown dates prior to 25 March 2019, she failed to report the communications between Pupil A and her to the school;
7. By reason of her conduct as set out at paragraphs 1 and/or 2, and/or 3, and/or 4, and/or 5 and/or 6, she failed to act with integrity;
8. By reason of her conduct as set out at paragraphs 1 and/or 2, and/or 3, and/or 4, and/or 5 she failed to maintain professional boundaries;
9. By reason of her conduct as set out at paragraphs 3 and/or 6 she was dishonest.
10. Her conduct as set out at paragraphs 1 and/or 4, and/or 5 was sexually motivated.

As set out in her witness statement dated 2 November 2022, Ms Attina partially admitted allegations 1, 2, 6 and 8. Ms Attina denied that the facts of those admitted allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, as set out in the response to the notice of referral dated 14 November 2022.

Ms Attina denied allegations 3, 4, 5, 7, 9 and 10.

## Preliminary applications

The following preliminary application was heard.

### Application for part of the hearing to be heard in private.

The panel considered an application made by the presenting officer for part of the hearing, during which Pupil A gave evidence, to be held in private session.

The panel heard submissions from the teacher's representative on the application before reaching its decision. The teacher's representative confirmed her position on the application was neutral and that she raised no objection to it.

The panel granted the application. The panel accepted the representations made by the presenting officer that if Pupil A was to give evidence in open session, they could be identified from their appearance by any member of the public attending the hearing. This would undermine the special measure that had been taken to anonymise Pupil A's identity during the proceedings.

The panel considered that in view of Pupil A being under 18 years of age and the special measure that had been taken to anonymise their identity, it was appropriate and necessary to agree to the application in order to safeguard the interests of Pupil A.

### Adjournment

On the third day of the hearing, before the teacher was sworn in to give evidence, the panel heard representations from both the presenting officer and the teacher's representative on whether the hearing should be adjourned. The concerns raised by the presenting officer was that it was not certain that the teacher's evidence could be heard by the end of the 30 November 2022. If it wasn't there would be a long delay before she resumed the giving of evidence. The teacher's witness, [REDACTED], was not available to give [REDACTED] evidence on 30 November 2022 and therefore the hearing would go part heard in any event. The teacher's representative, in her representations to the panel, confirmed her agreement with the presenting officer's submissions.

The panel considered the representations from the parties and determined to exercise its discretion under procedure 4.48 of the 'Teacher misconduct: disciplinary procedures for the teaching profession' updated in April 2018 (the 'April 2018 Procedures') and give directions for the management of the case. The panel gave the following directions:

- (1) The hearing was to be adjourned and relisted for a further 4 days on 2, 3, 9 and 10 May 2023.

- (2) If [REDACTED] is to give evidence on behalf of the teacher, the teacher must submit to the TRA a written statement of the evidence [REDACTED] will give, at least 4 weeks in advance of the date on which the hearing is to resume.
- (3) The TRA is to ensure [REDACTED] is available to attend the resumed hearing, in case either the panel or the TRA should wish to recall [REDACTED] to give evidence.
- (4) The parties must confirm in writing their availability, and that of their witnesses, to attend the resumed hearing on 2, 3, 9 and 10 May within 28 days, that is by 28 December 2022.

### Application to admit additional documents

On the 9 May 2023, during the course of the teacher's cross examination, the presenting officer made an application for a document containing several twitter messages asserted by have been published by the teacher on her twitter page, to be admitted into evidence as rebuttal evidence in response to oral evidence she had given during the course of cross examination.

The teacher's representative did not challenge the application.

The panel adjourned to consider this request and considered the document was relevant. The panel granted the application.

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 on 20 May 2020 (the 'May 2020 Procedures'). The panel understands that the earlier provisions contained within the 'April 2018 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 bundle of documents which included:

- Section 1: Chronology, anonymised pupil list and list of key people – pages 7 to 8
- Section 2: Notice of hearing and response – pages 9 to 16
- Section 3: TRA witness statements – pages 17 to 33

- Section 4: TRA documents – pages 34 to 418
- Section 5: Teacher documents – pages 419 to 440
- Witness statement of Brian Compton – pages 441 to 444
- TRA’s rebuttal evidence – pages 445 to 446

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

## **Witnesses**

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

- [REDACTED]
- Pupil A, former pupil at the School
- Parent of Pupil A

The panel heard oral evidence from the following witnesses called by the teacher’s representative:

- [REDACTED]

Ms Attina also gave evidence to the panel.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

Ms Attina was employed as a music teacher at Ernest Bevin College (‘the School’), from 30 August 2016.

The School received a call on 24 March 2019, from the Metropolitan Police informing it that Pupil A’s parent had attended a local police station and reported an inappropriate relationship between Ms Attina and Pupil A. It was reported by Pupil A that there had been inappropriate contact between Pupil A and Ms Attina.

On 25 March 2019, Ms Attina was arrested at the School and was interviewed by the police. She was suspended by the school on the same day. Ms Attina was interviewed by the police for a second time on 18 April 2019, at Ms Attina’s request. The decision was

taken not to pursue criminal proceedings against Ms Attina as the evidence did not meet the required threshold.

The matter was referred to the LADO and an Allegations against Staff and Volunteers ('ASV') meeting took place on 29 March 2019. A second ASV meeting was held on 2 May 2019 and a third ASV meeting was held on 29 August 2019.

The School conducted its own investigation between 11 and 18 June 2019, during which investigation meetings took place with Ms Attina and her representative, Pupil A and their parent, and 5 members of staff.

On 21 November 2019, the school held a disciplinary hearing and, on 16 December 2019, concluded that the allegations against Ms Attina were substantiated. Ms Attina was summarily dismissed from her role on 20 December 2019.

## **Findings of fact**

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

### **1. On unknown dates prior to 23 March 2019, you had an inappropriate relationship and/or contact with Pupil A;**

Ms Attina made an admission of inappropriate contact on 11 March 2019 and 19 March 2019.

Ms Attina gave evidence that on 11 March 2019, as she was walking home with her headphones on, she realised, as she approached her home, that Pupil A was following her and that they had her house keys with them, as they dangled these in front of her. Pupil A must have taken these whilst at School. Ms Attina maintained that she had sat at a bus stop outside her home where she attempted to persuade Pupil A to return her keys to her and go home. Pupil A instead entered the communal doors to Ms Attina's block of flats when they were opened by another individual. At that point, following further discussion, Ms Attina persuaded Pupil A to return her keys and leave. The panel accepted Ms Attina's account of this incident.

Ms Attina in her evidence stated that on 19 March 2019 Pupil A had taken her house keys again and this time let themselves in to her building and subsequently to her flat and refused to leave despite her requesting that they do so. The panel's findings in relation to this incident are detailed in respect of Allegation 4 below.



The panel concluded that the relationship between Pupil A, as found in respect of allegations 2, 6 and 7 crossed the line and failed to observe proper teacher student boundaries. Ms Attina treated Pupil A preferentially and rather than report their bad behaviour, as she had in respect of other students on numerous previous occasions, she had not reported Pupil A as she had not wanted to get them into trouble. This was despite Pupil A's conduct which included stealing Ms Attina's personal items, such as her headphones, keys and bank cards, and using her mobile telephone to take selfies.

Despite Pupil A's escalating and extreme misbehaviour Ms Attina did not report it on the School's information management system (SIMS), to her head of year, to the Vice Principal, or indeed to any other teacher at the School. The panel found it difficult to comprehend why she had not reported Pupil A's behaviour when the evidence strongly suggested she had reported difficult behaviour exhibited by other students, including around the time of the 19 March 2019 incident. In addition, Ms Attina had previously reported a similar occurrence to the police, in November 2018, when another student had followed her home and had loitered outside her block of flats.

In treating Pupil A more favourably than other students the panel considered that Ms Attina may have inadvertently encouraged their behaviour.

Teachers are expected to maintain and enforce appropriate and professional boundaries. Ms Attina failed to do so and Pupil A's misbehaviour escalated.

The preferential treatment Ms Attina showed towards Pupil A amounted, in the panel's view, to an inappropriate relationship. The panel accepted that the inappropriate relationship was not motivated by any malign reason but was instead because she did not want to get Pupil A into trouble, believing that she could address their misbehaviour herself. Nonetheless, as her relationship with Pupil A prevented her from reporting Pupil A's behaviour to the School and police and taking action to immediately block Pupil A's contact on Instagram, as she should have done, it was inappropriate.

The panel found allegation 1 proven.

## **2. On unknown dates prior to 23 March 2019, you had inappropriate contact with Pupil A via social media;**

Ms Attina admitted this allegation. She accepted that she had had contact with Pupil A on social media on 2 occasions via her personal Instagram account. The first was when Pupil A contacted her regarding an [REDACTED] they were taking part in, to which she responded to wish Pupil A good luck. This was on or around 9 March 2019. The second contact, which was initiated by Ms Attina, was on 19 March 2019, when she contacted Pupil A to ask them if they had her house keys. Pupil A confirmed they did.

The panel reviewed and considered all the evidence in the bundle, and concluded that the evidence before it, by way of screenshots that purport to be of messages sent between Pupil A and Ms Attina, was unclear and inconsistent. It was not possible to clearly make out who had sent them and what they said. In addition, it was not possible to make out the profile photographs of the individual sender and recipient.

The panel also noted that no original messages were found by the police on the mobile telephones of either Pupil A or Ms Attina, despite the evidence showing that both devices had been seized and searched by the police.

The panel had no evidence before it of the screenshots having been put to Ms Attina and Pupil A during the interviews conducted by the police or the School during their respective investigations, and the School's subsequent disciplinary hearing which provided contemporaneous evidence of the screenshot messages, what they contained and who had sent them.

Whilst Person B gave evidence on what they had seen on Pupil A's telephone there was no copy or clear documentary evidence of the purported messages and videos that they had seen. The panel considered the oral evidence Person B gave on the messages they had seen on Pupil A's telephone but also observed that when Person B was cross examined on the content of the messages they had seen their evidence became less certain and clear.

The panel considered [REDACTED] submission that Pupil A had kept the screenshots in a private folder on their telephone headed 'for my eyes only', but the panel was not shown evidence of that folder and what it had contained.

The panel had to weigh up the evidence in the bundle and the oral evidence given by Pupil A, Person B and Ms Attina.

The quality of the screenshots was very poor which made it difficult for the panel to ascertain their integrity. It was difficult for the panel to corroborate what messages Person B had seen on Pupil A's telephone as these did not appear to have been recovered by the police. The messages Person B had seen, and which Pupil A and Person B referred to during their interviews with the police, were not saved and retained, or transcribed with a time and date.

Whilst the bundle contained a case summary and two summaries of police interviews it contained no transcript of the actual interviews conducted by the police with Pupil A, Person B or Ms Attina. The case summary and summaries of police interviews provided by the police to the School contained references to messages and quoted extracts of those messages but gave no indication of where those quotes were taken from, the date of the message and from whom it was sent. The panel could not decipher whether the

police had seen the messages in question or were relaying in the summaries what the police had been told during their interviews with Person B and Pupil A. There was therefore no clear and contemporaneous evidence of what messages had been seen and referred to during those interviews.

Ms Attina's evidence was that she had never sent the messages contained in the screenshots and had not seen them before she saw them in the bundle of documents prepared for the hearing. She contended they were fake and that she would not have used language such as "ur", "u" and repetitive use of the same vowels. Ms Attina's representative drew the panel's attention to the fact that it was not possible to clearly see the profile photograph of the sender/recipient but it appeared that the profile photograph of the individual purported to be Ms Attina changed. It was contended that without being able to see the profile photographs clearly, or indeed the screenshots, it was not possible for the panel to conclude, on balance, that they had been sent by Ms Attina.

The panel considered Ms Attina's oral evidence and the rebuttal evidence adduced by the presenting officer during cross examination which showed six messages from Ms Attina's twitter account from 2014, 2015 and 2017. It noted that she had used repetitive vowels in some of the messages displayed. The panel, however, also observed that these concerned three messages of some age, which were without context to messages they may have been responding to or the number of tweets Ms Attina may have posted that did not contain repetitive vowels. Overall, the panel was not persuaded the rebuttal evidence showed a habit of using the type of language which appeared in some of the messages contained in the screenshots.

On balance, weighing up all the evidence, the panel was not satisfied the TRA had discharged the burden of proof that Ms Attina had sent the messages set out in the screenshots contained in the bundle.

The panel then considered the position regarding the messages Ms Attina accepted she had sent to Pupil A. It was satisfied that Ms Attina's contact with Pupil A, using her personal Instagram account, was inappropriate. The Panel considered Ms Attina's evidence that she had not known that it would be deemed to be inappropriate as she had understood that the reference made in the School's policy that staff '*should*' not have contact with students, meant it was only advisable not to have such contact. If the policy had stated staff '*must*' not have had such contact, she would have understood it was prohibited. Ms Attina also referenced the fact that in Italy such contact would have been permitted.

Whilst the panel conceded the School's policy should have been clearer, based on all the evidence, the panel was satisfied that Ms Attina did appreciate having contact with Pupil A on Instagram was inappropriate. This was demonstrated by the fact that Ms Attina had previously reported to the School an incident in June 2019 when she had inadvertently

accepted a pupil as a friend on Instagram, when they had used a fake account and she had mistakenly believed the pupil to be another individual unrelated to the School. The action she took in promptly reporting this incident persuaded the panel that she understood such contact was inappropriate.

As to Ms Attina's reference to the fact such contact would have been permissible in Italy, whilst the panel had no evidence before it that this was correct, in any event the panel was minded that at the time of the inappropriate social media contact with Pupil A, Ms Attina had been teaching in England for over 3 years, which it considered sufficient time for Ms Attina to have understood the position that applied in England.

The panel found allegation 2 proven.

**3. On unknown dates prior to 23 March 2019, you told Pupil A to delete one or more messages sent between you and Pupil A on social media;**

Ms Attina denied allegation 3.

As the panel concluded it did not have sufficient evidence to make a finding that the messages contained in the screenshots had been sent by Ms Attina, nor the other messages referred to elsewhere in the bundle, the panel was satisfied that there was insufficient evidence before it to find allegation 3 proven.

The panel therefore concluded that allegation 3 was not proven.

**4. On or around 19 March 2019, you allowed Pupil A to visit your home:**

Ms Attina denied allegation 4. Ms Attina stated that she did not allow Pupil A to visit her home on 19 March 2019. Pupil A informed the police, and admitted to the panel, that they took Ms Attina's keys and entered her flat without her permission.

Ms Attina stated in evidence that Pupil A followed her home, accessed her building through the communal entrance door to the flats and took the stairs up to her flat. Owing to an ankle injury, Ms Attina took the lift and when she arrived at the floor of her flat, she found the door already open, with Pupil A inside of it, having let themselves inside with her key.

The panel concluded that Pupil A, in taking Ms Attina's keys from her coat pocket earlier in the day, as they accepted they had, had used them to let [REDACTED] into the flat, and had therefore gained entry to Ms Attina's flat without her permission. It could not be held, that she had allowed Pupil A to visit her home on that occasion. The panel was of the view that the act of allowing someone into her home required a positive action from Ms Attina, and it did not find, on the evidence, that such a positive act occurred. Instead, the panel was satisfied Pupil A, without encouragement from Ms Attina, let themselves into

her flat, without invitation or permission, and that, as accepted by Pupil A in their evidence, remained in her flat despite Ms Attina repeatedly asking them to leave.

The panel considered, however, that once it became clear to Ms Attina that Pupil A had gained entry to her flat, she should have dealt with the situation differently. Whilst the panel accepted that it was a strange and unwelcome incident, Ms Attina should not have entered the flat after Pupil A. She should have remained outside and called the police for assistance. In entering the flat with Pupil A inside she had placed herself in an inappropriate and difficult position.

Nonetheless for the reasons given above the panel found allegation 4 not proven.

#### **5. On or around 19 March 2019, you kissed Pupil A;**

Ms Attina denied this allegation and that she had at any time kissed Pupil A. Ms Attina maintained that Pupil A had visited her flat uninvited and whilst there had taken her mobile telephone, entered her bedroom and when she followed them to retrieve her telephone Pupil A had pushed her on the bed, laid on top of her and held her wrists to hold her down. When she eventually freed herself Pupil A decided to leave the flat.

Pupil A, in [REDACTED] evidence, accepted Ms Attina's account, save for the fact Pupil A claimed she kissed them as they were leaving the flat.

Based on all the evidence before it, the panel concluded that it accepted Ms Attina's account over that given by Pupil A. It found Pupil's A evidence, and particularly their admission that they had held Ms Attina down on the bed, disturbing. The panel considered it most unlikely that after having suffered the ordeal described by Ms Attina, which was consistent with Pupil A's evidence, she would have kissed Pupil A as they left her flat.

The panel also noted the various references throughout the written evidence, which was confirmed by Ms Attina in her oral evidence, that Pupil A had threatened Ms Attina whilst they were in the flat, that if she called the police they would allege that she had kissed them. Based on the account of the incident given by both Pupil A and Ms Attina, the panel concluded that it was more likely than not that Pupil A had made this threat.

Whilst there can be no doubt that Ms Attina should have reported the incident to the School and to the police, the panel is satisfied that based on all the evidence Ms Attina's account was the more accurate and that there was insufficient evidence before it to conclude that Ms Attina kissed Pupil A.

The panel found allegation 5 not proven.

**6. On unknown dates prior to 25 March 2019, you failed to report the communications between Pupil A and you to the School;**

Ms Attina partially admitted allegation 6, in as much as she accepted the brief contact with Pupil A on Instagram set out in allegation 2 above. Ms Attina admitted that she had failed to report these communications to the School, but that this was due to having considered that it was not significant because she had not believed that contact via Instagram was prohibited.

The panel considered all the other actions of Pupil A that came out in evidence, which Ms Attina had also failed to report. This included: taking her personal mobile telephone on at least two occasions and taking photographs of themselves with it, some of which featured their bare chest (and in which Ms Attina was photographed trying to recover her telephone); taking Ms Attina's personal headphones from her handbag and walking around the music room with them on their head; taking her keys and following her home on 11 March 2019 (at which time she managed to persuade Pupil A to give back her keys and leave); taking her keys and bank card on 18 March 2019; and, culminating in the incident on 19 March 2019.

The panel was satisfied from the evidence that Ms Attina knew when and to whom these incidents should have been reported. She had clearly reported incidents of inappropriate behaviours involving other students to her [REDACTED], and the school's [REDACTED] on numerous occasions. She had also, in March 2019, reported incidents of inappropriate behaviour concerning other students. Whilst the panel noted in her evidence Ms Attina maintained that the School had failed to adequately respond to the previous incidents she had reported, and that she had been advised to deal with such misbehaviour herself, the panel was not persuaded this justified or explained her serious failure to report Pupil A's conduct, particularly as she had reported conduct relating to other students on or around 19 March 2019, and had reported an incident of another student following her home in November 2018 to the police.

The panel concluded that Ms Attina chose not to report the communications with, and the behaviour of, Pupil A because she favoured them. The panel did not conclude that Pupil A was the only pupil who she may have favoured, as it noted that she stated in her evidence Pupil A was one of a group of pupils who were keen to learn, interested in music, were attentive and helpful. Nonetheless, the panel concluded that due to Pupil A's interest in her subject, attentiveness to learn and the help they gave in setting up and clearing away after lessons, Ms Attina had been less inclined to report her communications with Pupil A as she would have had they been another student with whom she did not have such rapport.

The panel found allegation 6 proven.

**7. By reason of your conduct as set out at paragraphs 1 and/or 2, and/or 3, and/or 4, and/or 5 and/or 6, you failed to act with integrity;**

The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel considered that Ms Attina had failed to act within the higher standards expected of a teacher in respect of the allegations found proven.

The panel concluded that Ms Attina knew that she should not have had contact with Pupil A on Instagram and should have reported Pupil A's serious and extreme misconduct. By her conduct she failed to take the steps she had taken in respect of other students and had treated Pupil A preferentially.

Ms Attina maintained that the incidents of poor behaviour exhibited by Pupil A only occurred during a short period of time before the incident on 19 March 2019, perhaps starting only two weeks before. She accepted, however, that there had been an escalation in Pupil A's conduct which she had underestimated, believing that she was able to adequately deal with it.

The panel concluded that Ms Attina failed to report the incidents of Pupil A's misbehaviour, as she should have, despite being fully aware of the way in which and to whom she should have reported it.

The panel considered that whilst her reasons for doing so may have been well-intentioned, and that her aim had been to deal with the conduct herself and not get Pupil A into trouble, nonetheless her conduct was misguided. The panel considered that Ms Attina's lack of formal and effective intervention led to an escalation in Pupil A's behaviour, which was what the School's policies, statutory guidance such as Keeping Children Safe in Education and the professional standards of conduct were there to prevent. In failing to report Pupil A's conduct, Ms Attina failed to observe professional boundaries which may have emboldened Pupil A and led to the incident on 19 March 2019.

As a teacher, Ms Attina was under a professional duty to safeguard the wellbeing of Pupil A and other students. She should have ensured that the incidents of Pupil A's inappropriate, serious and extreme behaviours, and their contact via Instagram, were reported, so they could be addressed with Pupil A. Had she done so, it may have prevented their escalation. In failing to do so, she failed to act within the higher standards expected of teachers, and to act with integrity.

The panel found allegation 7 proven.

**8. By reason of your conduct as set out at paragraphs 1 and/or 2, and/or 3, and/or 4, and/or 5 you failed to maintain professional boundaries;**

Ms Attina acknowledged that she had failed to maintain professional boundaries. Ms Attina stated that she had been “*naïve and foolish*”.

For the reasons set out in respect of allegations 1, 2, 6 and 7 the panel concluded that Ms Attina had failed to maintain professional boundaries.

The panel found allegation 8 proven.

**9. By reason of your conduct as set out at paragraphs 3 and/or 6 you were dishonest.**

In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel, on the balance of the evidence before it, did not find allegation 3 proven. In relation to allegation 6, whilst it found that Ms Attina had failed in her professional duty to report the communications with Pupil A it was not satisfied that in failing to do so she had been dishonest.

The panel found allegation 9 not proven.

**10. Your conduct as set out at paragraphs 1 and/or 4, and/or 5 was sexually motivated.**

The panel was satisfied, on the balance of the evidence considered, that there was no evidence that Ms Attina’s conduct was sexually motivated.

The panel noted from the bundle of documents before it that Ms Attina denied that her conduct was sexually motivated and denied allegation 10. Ms Attina stated that she had never had any sexual motivation or intent towards Pupil A or any other child.

The panel’s attention was drawn to section 78 *Sexual Offences Act 2003* and to the cases of *Sait v The General Medical Council [2018]*, *Basson v General Medical Council [2018]* and *The General Medical Council v Haris [2020] EWHC 2518*.

On considering all the evidence the panel was satisfied that allegation 5 was not proven. In the absence of that allegation being proven there was no evidence of conduct of a sexual nature. The panel considered its reasons for finding allegations 1 and 2 proven and was satisfied there was no evidence that supported the contention that Ms Attina’s conduct was sexually motivated in relation to its finding of there having been an inappropriate relationship and inappropriate contact via Instagram with Pupil A.

Whilst the panel concluded Ms Attina failed to maintain professional boundaries and act with integrity, and that she had an inappropriate relationship with Pupil A, it did not conclude that her conduct was in any way sexually motivated. The panel was satisfied



that Ms Attina was motivated by the rapport she had developed with Pupil A through the engagement Pupil A had shown in her lessons and extra-curricular music activities and her belief that she could adequately deal with their conduct. This was misguided and ill-judged, but was not sexually motivated.

The panel found allegation 10 not proven.

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

The panel concluded that allegations 1, 2, 6, 7 and 8 were proven. The panel found that through Ms Attina's actions in failing to maintain professional boundaries and reporting Pupil's A's behaviour, she had allowed [REDACTED] inappropriate and unacceptable behaviour to escalate. She should have, instead, nipped it in the bud, by immediately reporting it.

In treating Pupil A more leniently than she had other students she had empowered Pupil's A behaviour. Whilst she described Pupil A's initial behaviour as "silly" and "stupid" and had underestimated how it might escalate, it was clear that it had escalated and became serious and disturbing. It is for this reason that it is important all teachers abide by their professional standards and follow school policies and practices.

The panel accepted Ms Attina's evidence that she had been left upset and distressed by the events of 19 March 2019 and had needed time to process it before reporting it. Nonetheless, she failed to appreciate that she had a professional duty to report it, to ensure Pupil A's conduct was addressed and to reduce the risk that any other individual was subjected to similar treatment.

The panel was minded that parents would expect their children to be safe in school and the actions that Pupil A exhibited towards Ms Attina on 19 March 2019 should have raised concerns as to the risk they might have posed to others. In failing to report the incident, Ms Attina failed to adequately address safeguarding matters. Indeed, it is questionable how Pupil A's conduct might have further escalated had Person B not taken Pupil A to the police when they did. This was conduct by omission. Whilst the panel appreciated Ms Attina may have failed to act as she had been the victim of Pupil's A behaviour, she should still have recognised her professional duty to report the earlier incidents, as well as the serious and disturbing incident that took place on 19 March 2019.

The panel considered whether in light of the facts of the proved allegations, Ms Attina's conduct 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 Attina, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Ms Attina 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
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach....
- 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 Ms Attina amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

The panel found that none of these offences relevant.

The panel noted that allegation 2 took place outside the education setting in that Ms Attina was communicating with Pupil A via social media. However, given that Pupil A was Ms Attina's current pupil, the panel believed that Ms Attina's conduct directly impacted upon her profession as a teacher.

Accordingly, the panel was satisfied that Ms Attina 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.

During the course of her employment, Ms Attina reported numerous concerns with regards to other students' conduct towards her; indeed, she had done so as recently as March 2019. She therefore knew how and to whom to report such incidents, yet failed to report any of the incidents committed by Pupil A. The consequence of her failure to do so may have led to the incident that occurred on 19 March 2019, which directly affected Ms Attina. The panel considered that the public would expect teachers to have addressed such escalating incidents professionally and appropriately and have recognised the importance of reporting the incident of 19 March 2019 promptly given the concerns that it raised regarding the risk of harm Pupil A might pose to others.

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

Having found the facts of allegations 1, 2, 6, 7 and 8 proved, the panel further found that Ms Attina'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 a 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 Ms Attina there was a strong public interest consideration in respect of the protection of pupils. Ms Attina had failed to maintain professional boundaries and report Pupil A's conduct, which had allowed Pupil A's conduct to escalate thereby becoming a potential risk to the safeguarding of others, particularly other pupils at the School.

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

There was also a strong public interest consideration in declaring proper standards of conduct in the profession as the conduct found against Ms Attina was outside that which could reasonably be tolerated.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Ms Attina.

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 Attina. 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, and particularly where there is a continuing risk;
- collusion or concealment including a failure to challenge inappropriate actions;
- a lack of integrity

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 Ms Attina's actions were deliberate. The panel reflected that the primary reason for Ms Attina's failings, which led to allegations 1, 2, 6, 7 and 8 being found proven, was her preferential treatment of Pupil A. The panel concluded, however, that her preferential treatment of Pupil A was not deliberate and was probably subconscious; the product of working in an environment which she found challenging, amidst which the engagement of Pupil A, and a small number of other pupils, in her

lessons and the extra-curricular music activities they attended offered welcome affirmative and positive reinforcement of the impact of her efforts.

There was no evidence to suggest that Ms Attina was acting under extreme duress. The panel noted, however, the evidence contained in the statement of [REDACTED] at the School, gathered during the School's investigation, that Ms Attina had suffered sexual harassment from male pupils at the School to which the School had not responded sufficiently strongly in all instances. Whilst this was hearsay evidence, it supported Ms Attina's evidence on this point. The panel accepted that the difficulties Ms Attina experienced at the School in respect of the conduct of pupils had had an adverse effect on her, which was likely to have made her more disposed to build a rapport with Pupil A and act preferentially towards [REDACTED] because [REDACTED] had been engaged in her lessons and attended extra-curricular music activities. This may have made it more difficult for her to accept the escalation in Pupil A's behaviour and take the action she should have.

Whilst there was no evidence submitted which demonstrated that Ms Attina had contributed significantly to the education sector, the panel noted the witness evidence given by [REDACTED] that Ms Attina had been a committed teacher, who was passionate about her subject and had gone the extra mile in running extra-curricular activities for pupils.

The panel noted a number of character references submitted on behalf of Ms Attina. In particular, the panel noted the following comments:

- [REDACTED] at the School:
  - *"Elisa has always behaved honestly and dutifully."*
  - *"I have no doubts about Elisa's honesty and integrity, during the year she has always received positive comments both from her line manager, from the manager of all the RQTs, and from the various learning walks she has received. Everyone has always highlighted her skills, her ability to involve pupils and the ability to manage very complex classes, such as those at Ernest Bevin."*
  - *"Elisa has always been very professional and collaborative with all colleagues."*
- [REDACTED]:
  - *"In her role as Teacher of Music at Ernest Bevin College Elisa was always committed to giving all students at the College access to the wonders of the subject. She achieved this by guiding pupils to participate in both the appreciation and the practical learning of Music."*

- *“Her enthusiasm and love for the music inspired many students to fully engage with the subject. Her classroom practice reflected her own musical prowess and classical training.”*
- *“The quality of Elisa’s teaching practice stood out and was recognised by Ofsted as very good during an inspection where many other aspects of the College were judged to need improvement.”*
- *“In the years that I have known Elisa both as a close friend and valued colleague she has proved herself to be, on countless occasions, someone who I can trust implicitly. Over the years I have sought her opinion and guidance on several personal matters because I respect her honesty and integrity fully.”*
- [REDACTED] at the School:
  - *“In all my years of knowing her, I wholeheartedly believe that this is not her character.”*
  - *“Although I was not a student of hers, since I would go to her for advice during the school day, I did see that the students really liked her because she was very engaging and helped them to express themselves by letting them learn and listen to the type of music they wanted.”*

The panel accepted Ms Attina’s evidence that Pupil A’s behaviour changed in just a two-week period. Pupil A changed from being helpful and motivated in musical activities at school to being *“pushy and inappropriate”* towards her. Ms Attina acknowledged that she did not immediately attach the right importance to this change in behaviour and stated in her evidence and in her reflective statement in the bundle that she regretted not having done so.

Ms Attina accepted that she was wrong to engage in communication with Pupil A online via Instagram. Ms Attina emphasised that she did not do this with any malign intent, but simply did not immediately recognise the seriousness and inappropriateness of doing so. The panel was satisfied that the content of the two messages the panel found that Ms Attina had sent to Pupil A were neither inappropriate or provocative. Ms Attina stated that had she recognised from the beginning how Pupil A’s behaviour was escalating quickly to become difficult and aggressive, she would have prevented the situation from getting worse. Ms Attina stated that she *“bitterly regret not reporting the first message received on Instagram and its inappropriate behaviour right away. I am sure reporting inappropriate behaviour immediately would have been the right choice. I was definitely wrong not to. Not reporting [REDACTED] inappropriate behaviour cause the pupil to feel in the right position to continue misbehaving.”*

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. The panel considered that the conduct found proven in allegations 1 and 2 was towards the less serious end of the spectrum. It considered, however, that the conduct found proven in allegations 6, 7 and 8 was more serious, and in failing to report the incidents of Pupil A's behaviour she had put herself and others at risk. It was only the actions of Person B, in contacting the police, that stopped further escalation. The panel was minded, however, that Ms Attina had been personally impacted by the actions of Pupil A and accepted her evidence that the impact upon her of the events of 23 March 2019 had been exacerbated by [REDACTED]. As a result, she had taken longer to process the events of 23 March 2019.

The panel also formed the view that Ms Attina had demonstrated both insight and remorse into her conduct. She had patiently engaged with, and attended, a hearing that had spanned 7 days, on 3 separate occasions, over an 11-month period, through which she had remained composed. She had also visibly found parts of the hearing emotionally difficult, particularly listening to, and providing her own account of, the events of 23 March 2019. The panel accepted that she had been a young and inexperienced teacher, who had acted in a naïve and misguided way, but who had not acted dishonestly or in any way deliberately set out to harm or cause potential harm to a pupil.

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. It considered there was a low risk of any repetition of the conduct found proven and that there was no evidence that a period of a least two years would serve any useful purpose.

## **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 found some of the allegations not proven, including 3, 4, 5, 9 and 10. I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Miss Attina 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
  - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach....
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel finds that the conduct of Miss Attina 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 Miss Attina, 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/or safeguard pupils. The panel has observed, “In the light of the panel’s findings against Ms Attina there was a strong public interest consideration in respect of the protection of pupils. Ms Attina had failed to maintain professional boundaries and report Pupil A’s conduct, which had allowed Pupil A’s conduct to escalate thereby becoming a potential risk to the safeguarding of others, particularly other pupils at the School.” 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 also formed the view that Ms Attina had demonstrated both insight and remorse into her conduct. She had patiently engaged with, and attended, a hearing that had spanned 7 days, on 3 separate occasions, over an 11-month period, through which she had remained composed. She had also visibly found parts of the hearing emotionally difficult, particularly listening to, and providing her own account of, the events of 23 March 2019. The panel accepted that she had been a young and inexperienced teacher, who had acted in a naïve and misguided way, but who had not acted dishonestly or in any way deliberately set out to harm or cause potential harm to a pupil.” I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Ms Attina was not treated with the utmost seriousness when regulating the conduct 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 and conduct that may bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Miss Attina herself and the panel comment “Whilst there was no evidence submitted which demonstrated that Ms Attina had contributed significantly to the education sector, the panel noted the witness evidence given by [REDACTED] that Ms Attina had been a committed teacher, who was passionate about her subject and had gone the extra mile in running extra-curricular

activities for pupils.” In addition “The panel noted a number of character references submitted on behalf of Ms Attina..”

A prohibition order would prevent Miss Attina from teaching. A prohibition order 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 comment “There was no evidence to suggest that Ms Attina was acting under extreme duress. The panel noted, however, the evidence contained in the statement of [REDACTED] at the School, gathered during the School’s investigation, that Ms Attina had suffered sexual harassment from male pupils at the School to which the School had not responded sufficiently strongly in all instances. Whilst this was hearsay evidence, it supported Ms Attina’s evidence on this point. The panel accepted that the difficulties Ms Attina experienced at the School in respect of the conduct of pupils had had an adverse effect on her, which was likely to have made her more disposed to build a rapport with Pupil A and act preferentially towards [REDACTED] because [REDACTED] had been engaged in her lessons and attended extra-curricular music activities. This may have made it more difficult for her to accept the escalation in Pupil A’s behaviour and take the action she should have.”

I have considered the panels comments regarding Miss Attina’s failure to report the pupil’s behaviour “The panel considered that whilst her reasons for doing so may have been well-intentioned, and that her aim had been to deal with the conduct herself and not get Pupil A into trouble, nonetheless her conduct was misguided. The panel considered that Ms Attina’s lack of formal and effective intervention led to an escalation in Pupil A’s behaviour, which was what the School’s policies, statutory guidance such as Keeping Children Safe in Education and the professional standards of conduct were there to prevent. In failing to report Pupil A’s conduct, Ms Attina failed to observe professional boundaries which may have emboldened Pupil A and led to the incident on 19 March 2019.”

I have also placed considerable weight on the finding of the panel that “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. It considered there was a low risk of any repetition of the conduct found proven and that there was no evidence that a period of a least two years would serve any useful purpose.”

I have given some weight in my consideration of sanction therefore, to the contribution that Miss Attina has made to the profession.

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

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath the first few letters.

**Decision maker: Sarah Buxcey**

**Date: 29 September 2023**

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

