



Teaching
Regulation
Agency

Mr Jacob Ashley Kindred: 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

Teacher: Mr Jacob Ashley Kindred

TRA reference: 20594

Date of determination: 28 September 2023

Former employer: Manchester Secondary Pupil Referral Unit

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 25 to 28 September 2023 by virtual means to consider the case of Mr Jacob Ashley Kindred.

The panel members were Dr Martin Coles (former teacher panellist – in the chair), Mrs Zabin Chauhan (lay panellist) and Mrs Bev Williams (teacher panellist).

The legal adviser to the panel was Mr Graham Miles of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Tom Phillips of Counsel instructed by Kingsley Napley LLP solicitors.

Mr Kindred was present and was represented by Miss Gurpreet Rheel of Counsel instructed by Thompsons Solicitors.

The hearing took place in public, save for evidence and submissions relating to Mr Kindred's health, and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 28 June 2023.

It was alleged that Mr Jacob Ashley Kindred was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a Teacher at Manchester Secondary Pupil Referral Unit ('the School'):

1. In the period between 2018 and 2020, on unknown dates, he made inappropriate and/or derogatory comments about pupils at the School, namely he:
 - a. said to Colleague A "I want to smack em" or words to that effect.
2. On 10 March 2020, in relation to Pupil A he:
 - a. did not use appropriate methods, including de-escalation, to address the conduct of Pupil A;
 - b. made inappropriate and/or unnecessary physical contact with Pupil A; and/or
 - c. made an inappropriate and/or unnecessary comment to Pupil A in that he said to him words to the effect of "I've got a family and a fucking kid" or words to the effect.

Mr Kindred denied the facts alleged in allegations 2a and 2b. He admitted the facts alleged in allegations 1 and 2c, but denied that the admitted conduct amounted to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Preliminary applications

As to whether to admit additional documents

Ms Rheel made an application to admit a bundle of additional documents comprising a statement of Mr Kindred, character references and diagrams of the classroom/route from the classroom relating to the incident on 10 March 2020. Mr Phillips confirmed that he had received the additional documents and did not object to their late submission. The panel was concerned that the documents had been submitted so late, but was satisfied that the additional documents were relevant and that it would not be unfair to admit them. The panel read the additional bundle of documents before proceeding further with the hearing.

As to whether the hearing should be in public or in private

Ms Rheel made an application on behalf of Mr Kindred that the hearing should go into private session, when needed, to hear evidence and submissions relating to matters concerning Mr Kindred's [redacted]. Mr Phillips did not oppose this application. The panel was satisfied that, in respect of evidence relating to Mr Kindred's [redacted], the public interest in the hearing taking place in public was outweighed by Mr Kindred's right to privacy. The panel agreed that the hearing would go into private session to hear any evidence and submissions relating to Mr Kindred's [redacted]. The hearing would otherwise take place in public

As to whether to amend allegation

Mr Phillips made an application to amend allegation 1 by replacing the existing wording with the following:

'On or about an unknown date in February 2020, you made an inappropriate comment about pupils at the School in that you said to Colleague A words along the lines of, "I'm going to end up losing my fucking job in a minute and end up smacking one".

Ms Rheel confirmed that there was no objection to this application. The panel was satisfied that this amendment did not affect the substance of the allegation and that no prejudice would be caused to Mr Kindred. Accordingly, the panel agreed to the amendment proposed.

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 10 to 14

Section 2: Notice of Hearing and response – pages 15 to 16

Section 3: Teaching Regulation Agency witness statements – pages 19 to 31

Section 4: Teaching Regulation Agency documents – pages 32 to 577

In addition, the panel agreed to accept an additional bundle of documents containing evidence submitted on behalf of Mr Kindred numbered 1 to 41.

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

Witnesses

The panel heard oral evidence from the following witnesses:

- Witness A [redacted];
- Witness B [redacted];
- Witness C [redacted];
- Mr Jacob Ashley Kindred.

Decision and reasons

The panel has carefully considered the case and reached a decision.

Mr Jacob Ashley Kindred began his employment at Manchester Secondary Pupil Referral Unit ("the School") in 2015. Prior to this he had held various positions teaching English as a foreign language in different countries and as an English Teacher and Outdoor Education Manager in schools in the UK. He began employment at the School as an English Teacher on a supply basis, but was given a full-time contract after a few months. He was promoted to the position of Senior Teacher in 2017.

Pupils attending the School had been excluded from mainstream education. One of those pupils was Pupil A, who joined the School in 2019 when aged 12. He was described as exceptionally volatile and unpredictable. He could quickly become physically aggressive and regularly made threats towards members of staff. Pupil A was approximately 5 feet 8 inches tall, which was said to be about the same height as Mr Kindred.

On the morning of 10 March 2023, Pupil A had behaved aggressively towards another teacher. This had involved throwing chairs and making threats against that teacher. The Assistant Headteacher decided that, as Pupil A had made amends for his behaviour, he should be allowed to remain onsite for a cooking session in the afternoon. Pupil A was known to enjoy cooking. The School had an arrangement with a taxi company that Pupil A would have a dedicated driver to take him to and from the School every day. On the afternoon of 10 March 2020, Pupil A's driver arrived at the School slightly early. At that point in time, Pupil A was in the food tech room where the cooking session was taking place. When his taxi arrived, Pupil A was not ready to leave as he had not completed his cooking and still had to pack his food to take home. Mr Kindred became involved in asking Pupil A to hurry up, which culminated in Mr Kindred escorting Pupil A from the common room out of the School building. It was not in dispute that, when outside of the main door to the building, Pupil A ended up on the floor with Mr Kindred on top of him. There were conflicting accounts as to what had caused them to end up on the floor.

Following this incident, Mr Kindred was suspended by the School. He was interviewed by the police, but there were no criminal charges.

The School conducted a disciplinary investigation and hearing. Mr Kindred was subsequently referred to the TRA.

Findings of fact

The findings of fact are as follows:

It was alleged that you are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a Teacher at Manchester Secondary Pupil Referral Unit ('the School'):

- 1. On or about an unknown date in February 2020, you made an inappropriate comment about pupils at the School in that you said to Colleague A words along the lines of, "I'm going to end up losing my fucking job in a minute and end up smacking one".**

Witness A, who was employed at the School as a [redacted], gave evidence about an incident which she said occurred in around February 2020. Witness A said that, on the day in question, there were children congregating outside of her office. They were becoming increasingly disruptive. Witness A said that Mr Kindred was trying to resolve the problem, but the pupils were being verbally abusive towards him. Witness A said that Mr Kindred then came into her office with Witness C, [redacted]. Witness A confirmed that Mr Kindred then said something along the lines of, *"I'm going to end up losing my fucking job in a minute and end up smacking one"*. Witness A said that Mr Kindred was smiling when he said this and she did not take what he said literally.

Witness C referred to an incident when she and Witness A were in the office and Mr Kindred was going back and forth to a group of pupils who were waiting for taxis. She said that Mr Kindred was telling them to be quiet and they were being abusive to him. Witness C confirmed that she recalled Mr Kindred coming into the office and saying, *"I'm going to lose my job. I want to give them a smack"*, or words to that effect. Witness C said that Mr Kindred's mood appeared heightened when he said this, but she did not take his comments seriously.

Mr Kindred admitted this allegation. He said that, on the day in question, a group of five or six pupils had congregated outside the School front door and were refusing to get into the taxis to take them home. He said they were blocking a fire escape and obstructing others from leaving the building. Mr Kindred in his statement said that, when he approached the group of pupils concerned to direct them to their taxis, they were verbally abusive to him. He accepted that he then spoke to Witness C and another member of staff and said something along the lines of, *"They won't fuck off. They just won't go. I could smack one of them. I really could"*. Mr Kindred said that it was a completely

inappropriate comment to make, but it was said to two members of staff in private and away from any pupil. Mr Kindred added that, from time to time, he had been an ear for inappropriate comments from other members of staff.

In her evidence, Witness B, [redacted] acknowledged that there were occasions in briefing meetings at the end of the day when staff might make inappropriate comments about pupils in order to let off steam. Witness B also said that she had previously made comments about pupils to other members of staff. She gave an example of a situation in which a pupil had tried to assault her when she might have said something like, "*Oh, I could just throttle him*" to another member of staff when no pupil was present.

The panel was satisfied by Mr Kindred's admission and the other evidence presented that Mr Kindred had made the alleged comment. The panel was also satisfied that the comment made by Kindred was inappropriate.

The panel found allegation 1 proved.

2. On 10 March 2020, in relation to Pupil A you:

a. did not use appropriate methods, including de-escalation, to address the conduct of Pupil A;

Witness B [redacted], said that on the morning of 10 March 2020 Pupil A had behaved aggressively with another member of staff. She said that the situation had escalated to the point that Pupil A was throwing chairs and making threats towards that member of staff. Witness B said that, usually if a pupil had behaved in that way, they would have been sent home. However, they were aware that Pupil A was an extremely traumatised child, and she took the decision to allow him to remain onsite for his cooking session, which he was known to enjoy. Witness B explained that the School had an arrangement with a taxi company that Pupil A would have the same driver to escort him to and from school every day.

On 10 March 2020, the taxi driver arrived slightly early. Witness B said that when she informed Pupil A that his taxi had arrived, he became frustrated as he was struggling to pack his food into a bag to take home. Witness B said that she told Pupil A that he needed to hurry up and he kept saying "just wait, just wait". Witness B said that she then went out of the food tech room, leaving Pupil A with Witness C next to him. Witness B said that, as she was walking to her office, she met Mr Kindred in the corridor. She could not recall exactly what she said to him but thought she might have said something along the lines of "*Pupil A needs to hurry up*". Witness B said that she had said this as a passing comment and had not intended that Mr Kindred should get involved. However, a short while later, Witness B looked out of her office window and saw Mr Kindred pushing Pupil A down the corridor. She said that Mr Kindred had his hands on the back of Pupil A's elbows, which was a legitimate guiding technique. Witness B said that Pupil A was

leaning backwards trying to resist being pushed. She then heard a commotion and went outside to see what was happening. When Witness B went outside, she saw that Pupil A was on the ground and Mr Kindred was almost lying on top of Pupil A holding him down. Witness B said that, both Pupil A and Mr Kindred were agitated. Another teacher, [redacted], then stepped in as an alternative adult so that Witness B could go inside.

Witness C gave evidence that she had been in the food tech room with Pupil A. When his taxi arrived, Pupil A's food was not ready and she was helping him take the food out of the oven and into foil trays to take home. She said that Pupil A had become slightly agitated as he was having to hurry. Witness C said that, after Mr Kindred came into the room, he reminded Pupil A on three occasions that his taxi was waiting. She said that, on the third occasion, Mr Kindred walked over to Pupil A. She said that there was shouting and swearing between them. Pupil A was swearing at Mr Kindred, but they were both shouting. Witness C said that she tried to diffuse the situation by placing herself in between Pupil A and Mr Kindred and saying to Mr Kindred, *"It's OK sir, I'll help him"*. Witness C said that Mr Kindred then took hold of Pupil A by his arms and moved him out of the room. She said that Pupil A continued to verbally abuse Mr Kindred and tried to grab onto a sweeping brush that she was holding as Mr Kindred moved him.

Witness A also gave evidence that, she had been in the food tech room and was walking to her office when Mr Kindred entered that room. Although she could not see what happened, she could hear Mr Kindred tell Pupil A that he needed to get into his taxi and Pupil A being abusive in his response. She said that Mr Kindred had sounded agitated.

Mr Kindred denied this allegation. He said that after Witness B had spoken to him in the corridor, he went straight into the common room to speak to Pupil A. He had treated Witness B's comment as an instruction to get Pupil A into his taxi as quickly as possible. He said that he was the Senior Teacher and felt that it was his responsibility to ensure that this happened. Mr Kindred said that, when he spoke to Pupil A, he was not getting angry and was not agitated. However, the panel noted that, in his statement for the School's disciplinary hearing, Mr Kindred said:

"On reflection, a year after the incident, I can see that my approach and the initial physical contact that I used might have been unnecessary. I can now see clearly how heightened I already was before I intervened with Pupil A and that I was not in the right psychological state to be dealing with someone with Pupil A's presenting needs and risks". In the same statement, Mr Kindred said, *"I made the decision to escalate my approach and I moved towards him with the intention of standing in his personal space and encouraging him to move. Probably, this was poorly judged, and I walked straight into a position where I felt unsafe"*.

Witness B gave evidence that all members of staff, including Mr Kindred, had received training in Team Teach. She said that the first approach of Team Teach was to attempt to de-escalate a situation and that physical intervention should always be the last resort.

Witness B also said that all staff were aware that Pupil A responded better to female members of staff and that Pupil A had a good relationship with Witness C. Witness B said that staff had also been advised in daily de-briefs to ensure that Pupil A was given appropriate space. The panel's attention was also drawn to extracts from the Team Teach manual and to examples of strategies for de-escalation, including the need to speak calmly and without a raised voice and to display calm body language. By his own admission in his statement for the disciplinary hearing, Mr Kindred was in a heightened state when he intervened. As he also acknowledged in the same statement, his decision to escalate his approach by standing in Pupil A's personal space was a poor judgment on his part. The panel was satisfied that Mr Kindred intervened when it was unnecessary for him to do so. Furthermore, his continued involvement and presence became an aggravating factor. The most obvious means of dealing with the situation would have been to allow Witness C to continue to assist Pupil A in getting his food together.

The panel was satisfied that Mr Kindred had not used appropriate methods, including de-escalation to deal with the conduct of Pupil A. Indeed, his involvement had caused Pupil A's conduct to escalate.

The panel found allegation 2a proved.

b. made inappropriate and/or unnecessary physical contact with Pupil A

Witness A said in her evidence that she was in her office on the phone when she saw Mr Kindred walk past her office window towards reception. She said that she saw Mr Kindred walking behind Pupil A and pushing the pupil's back. When they got outside, she could see them through her external window. Witness A said that she saw Mr Kindred with his back towards the reception doors and that he was face to face with Pupil A. She said that Pupil A was saying to Mr Kindred, "*You ginger prick, you ginger cunt*", or words to that effect. Witness A said in her oral evidence that it looked like Pupil A was trying to physically attack Mr Kindred. She heard Mr Kindred say to Pupil A in response, "*I've got a fucking kid, I've got a fucking family*" in a raised tone. Witness A said that she then saw Mr Kindred almost lift Pupil A and throw him down on the floor. She said that Pupil A landed on his back and Mr Kindred landed on top of him. Witness A said that Witness B and [redacted] came outside and diffused the situation.

After Mr Kindred went back inside, Pupil A was extremely distressed. He was crying and shouting threats towards Mr Kindred, including that he would memorise Mr Kindred's number plate and that Mr Kindred was a "*Fucking dead man walking*". Pupil A was vomiting, but the available medical evidence indicated that the only injury sustained by Pupil A was a graze to his leg. When questioned on behalf of Mr Kindred, Witness A accepted that it was a possibility that Mr Kindred and Pupil A had fallen to the ground.

Mr Kindred denied this allegation. He said in his evidence that he had thought that when Pupil A got outside he would calm down, but he did not. Instead, Pupil A tried to punch,

kick and headbutt him. Mr Kindred said that he tried to avoid Pupil A's kicks and headbutts and held Pupil A's arms. This was initially at arm's length, but he then brought Pupil A into him to try to guard against the kicking and to close his range so that Pupil A could not throw effective punches. He said that, when in this clinch, Pupil A placed weight on the side he was leaning away from and this caused them both to fall onto the floor. Mr Kindred said that he was on top of Pupil A at that point, but he moved his weight off the pupil as quickly as possible and placed him in the recovery position on his side. He said that [redacted] then tapped Mr Kindred on the shoulder and asked if he would like a transfer of adult. Mr Kindred said he agreed to this and then went inside.

It was put to Mr Kindred that this account of events differed from the accounts that he had given in his written statement for the School's disciplinary hearing and in his interview with the police. In both of those accounts, he had stated that he and Pupil A had ended up on the floor as a result of Mr Kindred managing Pupil A to the ground rather than this being the result of a fall. In his statement for the disciplinary hearing, he had said, *"I had to protect myself and staff property from being damaged. I felt that as I was continuing to face a series of blows from Pupil A when standing upright and face to face, the safest way to achieve this was to manage the student to the ground"*.

The panel recognised that there was conflicting evidence as to how Pupil A and Mr Kindred had gone to the ground. Based on the evidence presented, it was not possible for the panel to determine whether it was more likely to have been the result of a fall or Mr Kindred deliberately taking them both to the ground. In view of this lack of clarity, it was not possible for the panel to determine whether Mr Kindred's actions at that particular point were appropriate. However, the panel was satisfied that Mr Kindred's physical contact with Pupil A starting in the food tech room ultimately caused the incident outside of the School. In engaging in that physical contact without deploying other appropriate methods of dealing with Pupil A, Mr Kindred had made physical contact with Pupil A that was inappropriate and unnecessary.

The panel found allegation 2b proved.

c. made an inappropriate and/or unnecessary comment to Pupil A in that you said to him words to the effect of "I've got a family and a fucking kid" or words to the effect.

Mr Kindred admitted this allegation. Witness A also gave evidence that Mr Kindred used these words in a raised tone in response to Pupil A being verbally abusive to Mr Kindred and prior to them both going to the floor. Mr Kindred said that he made this comment when he was under extreme pressure and stress during what he described as a sustained assault by Pupil A. Mr Kindred said that he had previously broken a bone in his hand in an assault by another pupil in January 2019. As a consequence of that injury, he had not been able to bathe or feed his infant son or support his wife around the house. Mr Kindred said that the prospect of being placed in a similar situation as a result of an

injury caused by Pupil A was running through his mind when he made the comment. Nevertheless, Mr Kindred accepted that this was not an appropriate way to talk to any child, let alone a vulnerable child in a state of extreme stress.

The panel was satisfied that Mr Kindred's comment was both inappropriate and unnecessary.

The panel found allegation 2c proved.

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

Having found allegations 1, 2a, 2b and 2c proved, 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 first considered the conduct found proved in allegation 1. Mr Kindred accepted that his conduct was unprofessional. He had made the inappropriate comment to two more junior members of staff. However, neither member of staff had taken the comment seriously. The comment was not made in the presence or hearing of any pupil. Although the comment was unprofessional, the panel was not satisfied that it amounted to misconduct of a serious nature falling significantly short of the standard expected of the profession. Accordingly, the panel concluded that the conduct in allegation 1 did not reach the threshold for unacceptable professional conduct or conduct that may bring the profession into disrepute.

As regards the facts found proved in allegations 2a, 2b and 2c, the panel was satisfied that the conduct of Mr Kindred involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Kindred 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Kindred's conduct displayed behaviours associated with any of the offences listed on pages 12 to 14 of the Advice. The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mr Kindred in allegations 2a, 2b and 2c amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Accordingly, the panel was satisfied that Mr Kindred was guilty of unacceptable professional conduct.

As regards conduct that 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 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 panel concluded that Mr Kindred's proven conduct in allegations 2a, 2b and 2c also constituted 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. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely, the protection of pupils, the maintenance of public confidence in the profession, declaring and upholding proper standards of conduct and the public interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the protection of pupils, given the findings that Mr Kindred had made inappropriate and unnecessary physical contact with a pupil and made inappropriate comments towards that pupil.

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

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

The panel decided that there was a public interest consideration in retaining the teacher in the profession. The panel was satisfied that Mr Kindred is able to make a valuable contribution to the profession. In reaching this conclusion, the panel had particular regard to the appraisal document completed by Witness B which described Mr Kindred's classroom behaviour management and strategies for engaging students as 'exemplary'.

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

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Kindred. 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;

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.

The panel concluded that Mr Kindred's physical intervention was ultimately responsible for Pupil A and Mr Kindred ending up on the floor, which caused Pupil A to sustain a graze to his knee. However, the panel accepted that it was not Mr Kindred's intention to cause any injury to the pupil. The panel also had regard to the fact that Pupil A was described as a pupil with behavioural difficulties that were exceptional even for a Pupil Referral Unit.

There was no evidence to suggest that Mr Kindred was acting under duress. However, as Mr Kindred said in his written statement for the School's disciplinary hearing, he did

not think that he was "in the right psychological state to be dealing with someone with Pupil A's presenting needs and risks". [redacted]

Mr Kindred did have a previously good history and the panel accepted that the conduct found proved occurred on a single day in an otherwise unblemished career.

A number of positive testimonials and character references were submitted on behalf of Mr Kindred. These included one from [redacted] who said that he had worked with Mr Kindred at the School for four years. [redacted] described Mr Kindred as "*an excellent teacher*" whose contribution to the School had been significant, "*from his role as Lead Teacher to his co-ordination of the Outdoor Educational Visits programme. Jake was instrumental in starting the programme and provided ongoing leadership in regards to its maintenance*". He considered Mr Kindred to be "*a valued colleague and influential educator who had served some of Manchester's most vulnerable children to the best of his considerable ability*".

Another character reference was from [redacted], a [redacted]. He described Mr Kindred as "*an extremely competent teacher*" who had "*dedicated much of his adult life to teaching and trying to improve the life goals and ambitions of his students*". He also said that Mr Kindred "*has a strong sense of duty, which applies to his job, family and community*".

Mr Kindred has expressed regret and remorse for his conduct and expressed insight. Taking all of these mitigating factors into consideration, the panel concluded that the risk of the conduct being repeated was low.

The panel 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. Although the conduct found proved was serious, 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 was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable; and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found all of the allegations proven and found that some of those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

However, the panel also found that allegation 1, while proven, does not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

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 Mr Jacob Ashley Kindred 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 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 Mr Kindred fell short of the standards expected of the profession.

The findings of misconduct are serious as they involve inappropriate and unnecessary physical contact with a pupil which resulted in an injury.

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

whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Kindred, 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 observe, "There was a strong public interest consideration in respect of the protection of pupils, given the findings that Mr Kindred had made inappropriate and unnecessary physical contact with a pupil and made inappropriate comments towards that 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, "Mr Kindred has expressed regret and remorse for his conduct and expressed insight. Taking all of these mitigating factors into consideration, the panel concluded that the risk of the conduct being repeated was low." Given the degree of remorse and insight demonstrated, and taking into account Mr Kindred's previous good history, I agree with the panel's assessment that the risk of a repeat of this behaviour appears low and 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, "As regards conduct that 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 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 panel concluded that Mr Kindred's proven conduct in allegations 2a, 2b and 2c also constituted conduct that may bring the profession into disrepute." I am mindful that findings of both a teacher making inappropriate and unnecessary physical contact with a pupil and making inappropriate comments to a pupil, even if there are mitigating circumstances, have the potential to damage the public's perception of the teaching 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."

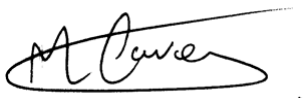
I have considered whether the publication of findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found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

I have also considered the impact of a prohibition order on Mr Kindred himself. The panel record that it, "...decided that there was a public interest consideration in retaining the teacher in the profession. The panel was satisfied that Mr Kindred is able to make a valuable contribution to the profession. In reaching this conclusion, the panel had particular regard to the appraisal document completed by Witness B which described Mr Kindred's classroom behaviour management and strategies for engaging students as 'exemplary'". The panel also observe that, "Mr Kindred did have a previously good history and the panel accepted that the conduct found proved occurred on a single day in an otherwise unblemished career." and reference the positive testimonials and character references that were submitted on behalf of Mr Kindred.

A prohibition order would prevent Mr Kindred 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 comments concerning the degree of remorse and insight demonstrated by Mr Kindred which indicate that the risk of repetition of the misconduct found is low. I have also taken account of Mr Kindred's previously unblemished record as a teacher and the panel's comments as to the mitigating factors present in this case.

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 "Marc Cavey", enclosed in a thin black rectangular border.

Marc Cavey

Date: 05 October 2023

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