



Teaching
Regulation
Agency

Mr David Gillon: Professional conduct panel outcome

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

October 2023

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

Teacher: Mr David Gillon

TRA reference: 0019714

Date of determination: 17 October 2023

Former employer: Bishop Challoner Catholic School, Basingstoke

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 16 October 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr David Gillon.

The panel members were Mr Jeremy Phillips KC (lay panellist – in the chair), Ms Sarah Daniel (lay panellist) and Mrs Diana Barry (teacher panellist).

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

The presenting officer for the TRA was Ms Louisa Ravenscroft of Capsticks LLP solicitors.

Mr Gillon was present was represented by Mr Andrew Faux of The Reflective Practice.

The hearing took place in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 31 August 2023.

It was alleged that Mr Gillon was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst a teacher at the Bishop Challoner Catholic Secondary School:

1. Between 18 March 2020 to 22 March 2020 he:
 - a. discussed matters of a personal nature with Pupil A in emails exchanged between his school email address and a personal email address for Pupil A;
 - b. sent emails containing discussion of matters of a personal nature to Pupil A from his personal email address;
 - c. invited Pupil A to communicate with him via text message/ WhatsApp on his personal mobile number.
2. Between 22 March 2020 to 10 July 2020 he communicated with Pupil A via text message on his personal mobile telephone, including:
 - a. placing x's on a number of messages that he exchanged with Pupil A;
 - b. discussing his personal relationships with Pupil A;
 - c. discussing Pupil A's [REDACTED];
 - d. inviting Pupil A to telephone him;
 - e. inviting Pupil A to meet up with him outside of the School environment.

The panel was presented with a statement of agreed facts signed by Mr Gillon on 5 October 2023, in which he admitted all of the allegations and that his actions amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary application

Application for the hearing to be held in private

An application was made on behalf of Mr Gillon to hear these proceedings in private.

It was submitted that the case engaged an extremely private and personal matter, [REDACTED].

In summary, it was submitted that there was private, sensitive data involved in the case. It was also submitted that this issue was so central to the case that it would not be practical to hear only parts of it in private.

The application was not opposed by the TRA, which took a neutral approach.

In determining the application, the panel had careful regard to the parties' submissions, and it accepted the legal advice provided.

The panel took account of the fact that there is a presumption that hearings of this nature will take place in public and there is a legitimate public interest in the openness and transparency of the TRA's disciplinary procedures.

The panel additionally noted that the outcome of the hearing is to be announced in public in any event.

However, on balance, the panel agreed that the entirety of the hearing should be heard in private on the specific basis that this was necessary to protect the private interests engaged.

In particular, the documents and the evidence likely to be heard by the panel alluded to matters of a sensitive and private nature. [REDACTED].

The panel therefore concluded that it was necessary and appropriate to exclude the public.

The panel gave careful consideration as to whether it would be appropriate for only part of the hearing to be heard in private.

However, in the circumstances it did not consider this was appropriate or practical.

This specific issue and the wider factual background were likely to be closely interwoven in the presentation of this case. The panel concluded there was a risk of significant disruption if it sought to compartmentalise the issue, which was likely to prove an unhelpful distraction and result in a lack of continuity.

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 6 to 8

Section 2: Notice of proceedings and response – pages 9 to 29

Section 3: Teaching Regulation Agency witness statements – pages 30 to 46

Section 4: Teaching Regulation Agency documents – pages 47 to 476

Section 5: Teacher documents – pages 477 to 582

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 Witness A, called by the presenting officer.

Witness statements from the following individuals relied upon by the TRA were also included in evidence:

- Witness B
- Witness C
- Person B, the [REDACTED] of Pupil A.

However, these witnesses were not called to give evidence further to the admissions made by Mr Gillon.

Mr Gillon attended the hearing and gave evidence. Mr Gillon also called Individual A to give evidence on his behalf. Individual A is a former colleague of Mr Gillon.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Introduction

Mr Gillon was previously employed as a mathematics teacher and form tutor at Bishop Challoner Catholic Secondary School ("the School").

Mr Gillon commenced work at the School on 1 September 1999. In or around 2006, he was promoted to the role of head of mathematics.

The chronology of events leading to Mr Gillon's referral to the TRA was as follows:

- On 20 July 2020, the [REDACTED] of the School received a complaint about Mr Gillon from the [REDACTED] of a former pupil. It was reported that Mr Gillon had

been sending emails and text messages to a pupil, Pupil A, via a personal email address and personal mobile telephone number.

- [REDACTED].
- On 20 July 2020, the same day the concerns were reported, Mr Gillon was the subject of a referral to the Local Authority Designated Officer ("LADO").
- On 21 July 2020, the [REDACTED] and [REDACTED] met with Mr Gillon and informed the parent of Pupil A about the allegations.
- That same day, an investigation officer was appointed.
- On 22 July 2020, the School wrote to Mr Gillon confirming his suspension from duties.
- On 23 July 2020, Pupil A's [REDACTED] provided the School with copies of messages exchanged by Mr Gillon and Pupil A.
- On 8 December 2020, the School received a resignation letter from Mr Gillon.
- On 31 December 2020, Mr Gillon ceased employment at the School.

On 17 December 2020, the School referred Mr Gillon to the TRA.

Evidence considered by the panel

The panel carefully considered all of the evidence presented. It accepted the legal advice provided.

The panel was presented with witness statements from the following individuals:

- Witness A
- Witness B
- Witness C
- Person B, the [REDACTED] of Pupil A.

However, only Witness A was called to give evidence. The remaining witnesses were stood down on the basis that Mr Gillon admitted the facts of the allegations.

Mr Gillon attended the hearing and was represented by counsel. Mr Gillon signed a statement of agreed facts on 5 October 2023 in which he admitted all of the allegations

and that his actions amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Mr Gillon also called Individual A as a character witness. Individual A [REDACTED] at the School when Mr Gillon first joined.

Findings of fact

The findings of fact are as follows:

1. Between 18 March 2020 to 22 March 2020 you:

- a. discussed matters of a personal nature with Pupil A in emails exchanged between your school email address and a personal email address for Pupil A;**
- b. sent emails containing discussion of matters of a personal nature to Pupil A from your personal email address;**
- c. invited Pupil A to communicate with you via text message/ WhatsApp on your personal mobile number.**

Mr Gillon admitted the facts of allegations 1(a) to 1(c), which the panel considered together.

The statement of agreed facts set out, *inter alia*, the following, agreed matters:

- Since around December 2018, Pupil A had been experiencing difficulties at the School. Pupil A was [REDACTED] and had been subject to bullying by other pupils. [REDACTED].
- In or around February 2020, Pupil A was the victim of [REDACTED] bullying within the School.
 - Following a specific incident, Pupil A spoke to Mr Gillon, for the first time, about how he was feeling. This conversation occurred within school after a class taught by Mr Gillon and addressed the behaviour of other pupils towards Pupil A and [REDACTED]. [REDACTED]
- [REDACTED]
- Pupil A had previously spoken to Witness C, the [REDACTED], who was providing appropriate pastoral support. After the discussion in February 2020, Mr Gillon reported to [REDACTED] that he had had a conversation with Pupil A about Pupil A's [REDACTED].

- From February to March 2020, Mr Gillon and Pupil A continued to have discussions after lessons, touching upon pastoral issues and how Pupil A was coping.
- On 17 March 2020, an email was sent to all teaching staff at the School to provide them with contact information and guidance relating to safeguarding pupils. Within this guidance, the School confirmed that communications between teaching staff and pupils should occur using the 'Show my Homework' application. Teaching staff were instructed not to enter into online conversations or face to face teaching over media, as that may leave staff vulnerable. Staff were further advised to raise any safeguarding concerns via specific channels.
- On 1 April 2020, a further email was sent in response to the School's closure as a result of Covid-19. It reiterated that contact with pupils should remain professional, and emails should only be exchanged using a teacher's school email address. Mr Gillon acknowledged that he received this email and that he did not request permission to contact Pupil A using a personal email address.
- Email communications between Mr Gillon and Pupil A commenced on 18 March 2020, from Mr Gillon's school email to Pupil A's personal email account. The content of the email communication initially addressed the cancellation of GCSE exams and then began to be of a personal nature.
- At that point, Mr Gillon was not required to deliver any teaching/lessons to Pupil A [REDACTED].
- Mr Gillon initially discussed matters of a personal nature with Pupil A in emails exchanged between his school email and Pupil A's personal email address, which he accepted was inappropriate and contrary to the School's policies.
- Within these emails, Mr Gillon invited Pupil A to call him by his first name, which he accepted was overstepping professional boundaries.
- [REDACTED]. Mr Gillon accepted that it was inappropriate to share personal information with a pupil and that he failed to maintain professional boundaries. The content of the messages was agreed to be over-familiar and not in keeping with a professional, teacher-pupil relationship
- Mr Gillon subsequently stopped using his school email account and used a personal email address to exchange emails with Pupil A.
- The first email sent by Mr Gillon from his personal account occurred on 22 March 2022, which he accepted was contrary to the School's requirements and policies.

- Within this email, Mr Gillon provided Pupil A with his personal mobile telephone number, and they subsequently communicated by that means. It stated:
 - *"I've replied from a different email address because I've been having some issues with the school one and although it's just delivered your message it won't let me send right now. I have no issues with trusting you to have access to this one and be discreet and, if it's easier (thought would be frowned upon I'm sure but I'm more interested in being able to help and support you if you need it to be honest). I'm happy if you find it easier to text/iMessage or use WhatsApp (which I use a lot) on [Mr Gillon's personal mobile number]."*
- Mr Gillon also accepted that he failed to adhere to the School's Code of Conduct in relation to his interactions with Pupil A in circumstances where he was aware of the School's policies relating to communications with pupils and that his conduct contravened them.
- Mr Gillon did not obtain permission from the School to communicate in this way or notify it of these communications.
- It was agreed that Mr Gillon ought to have passed on any safeguarding or pastoral concerns to the Designated Safeguarding Lead and/or pastoral lead, or sought assistance from the head of year, although he did remain in communication with Witness C and shared some information with her regarding the pastoral care of Pupil A.

In light of Mr Gillon's admissions, which were consistent with the evidence before the panel, it found the facts of allegations 1(a) to (c) proved.

2. Between 22 March 2020 to 10 July 2020 you communicated with Pupil A via text message on your personal mobile telephone, including:

- a. placing x's on a number of messages that you exchanged with Pupil A;**
- b. discussing your personal relationships with Pupil A;**
- c. discussing Pupil A's [REDACTED];**
- d. inviting Pupil A to telephone you;**
- e. inviting Pupil A to meet up with you outside of the School environment.**

Mr Gillon admitted the facts of allegation 2.

He accepted that:

- Between 22 March 2020 and 10 July 2020, he sent 451 text messages, over the span of 69 text conversations, to Pupil A from his personal mobile phone.
- During this personal text communication with Pupil A, he placed an 'x' on four messages, [REDACTED].
- The first two messages which included an 'x' were sent to Pupil A on Saturday 28 March 2020. The messages read:
 - *"I'm glad [REDACTED]. I'm happy you've found someone to talk to who seems nice – as I said you deserve someone nice because you're a lovely guy x"*;
 - *"Opps...not sure I should've typed the 'x!' (screaming face emoji)"*
- Two further text messages were on 12 April 2020, [REDACTED], which also contained an 'x', namely:
 - *"Am I allowed to end that with a 'x'?"*
 - *"I'm so happy for you x"*
- Ending a message with an 'x' to Pupil A was unprofessional and unacceptable.
- He discussed [REDACTED] with Pupil A, including sharing details of [REDACTED].
- He over-stepped the professional relationship that he ought to have maintained with Pupil A and it was inappropriate to share details [REDACTED] with Pupil A.
- During the exchange of text messages Mr Gillon had with Pupil A, he discussed [REDACTED] with him. This included [REDACTED].
- Mr Gillon did not raise any safeguarding concerns or pastoral concerns to the School arising from these communications.
- [REDACTED]
- From 22 March 2020, Mr Gillon informed Pupil A by text message, on more than one occasion, that he could telephone him to speak to him, which he accepted was inappropriate and unprofessional.
- Mr Gillon had not sought the permission of the School to engage in telephone conversations with Pupil A and did not inform the School that he had proposed to engage in telephone calls with Pupil A.

- On 8 July 2020, Mr Gillon sent text messages to Pupil A suggesting that they meet, which stated:

"Let's see if we can find a time to have a chat in a park or somewhere sometime when the weather isn't quite so awful (smiling face emoji)"

"Our term actually ends next Friday which will mean the end of supporting home learning – so sometime after that I should be able to fit with when you're free to – and the weather (smiling face with sunglasses emoji)"

- There was no educational purpose or requirement to meet with Pupil A in July 2020. He had not been requested to visit Pupil A by the School, nor did he inform the School of his proposal to meet with Pupil A. The purpose of the proposed meeting was social, which was agreed to be unprofessional.
- Within the text messages, Mr Gillon invited Pupil A to treat the exchange of communication, *"as a conversation with a friend, not a tutor"*.
- Mr Gillon was not always providing pastoral support towards Pupil A, but was deriving his own emotional support from Pupil A. He agreed it was inappropriate and unprofessional for a teacher to become emotionally reliant on a pupil.
- At the time of his communication with Pupil A, he was aware that his conduct contravened the School's policies.

In light of Mr Gillon's admissions, which were consistent with the evidence before the panel, it found the facts of allegations 2(a) to (e) proved.

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

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Whilst this was admitted by Mr Gillon and that admission was taken into account, the panel made its own, independent determination.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Gillon, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Gillon was in breach of the following standards:

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

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

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel found that none of these offences were relevant.

Over and above the breaches of the Teachers' Standards identified above, in relation to all of the proven allegations the panel took into account the wider context.

Mr Gillon's failings occurred over a prolonged period of time and without appropriate transparency in terms of the School's knowledge. He used personal communication methods and devices, and the volume of messages was an aggravating feature. At times, messages were exchanged late at night and there were occasions when Mr Gillon would send follow-up messages if Pupil A did not respond. The content and language was frequently inappropriate, was not limited to Pupil A's wellbeing and was unrelated to school matters. Mr Gillon expressly invited Pupil A to address him using Mr Gillon's first name at a time when Pupil A remained on the School's roll.

Further, when Mr Gillon engaged in communications via his personal email address and mobile phone, he was fully aware that this was contrary to the School's policies. It was clear that appropriate guidance was provided to staff regarding communication with pupils during the Covid-19 pandemic, which Mr Gillon flouted.

Mr Gillon also shared personal information within a dynamic in which professional boundaries were not being maintained, including details of his own [REDACTED]. Such matters were inappropriate as between a teacher and a pupil.

Insofar as some of the communications alluded to some pastoral concerns on the part of Pupil A, these were not shared with the School on every occasion.

Mr Gillon was in a position of trust and responsibility as a very experienced teacher. He was a role model. He had a duty to maintain appropriate professional boundaries with all pupils and at all times.

Mr Gillon had clearly breached his obligations in that regard.

Further, whilst it was not alleged that Mr Gillon's actions were improperly motivated, they presented a risk of feelings of dependency on the part of the pupil, who was clearly vulnerable. Mr Gillon accepted that to at least some extent, he was deriving some emotional support from Pupil A, which was indicative of the friendship that had inappropriately developed between them. That could also have resulted in Pupil A feeling compelled to continue the communications. Both Pupil A and Mr Gillon could be seen to be instigating conversations.

For all these reasons, in relation to each of the proven allegations, considered individually and together, the panel was satisfied that the conduct of Mr Gillon 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 Gillon was guilty of unacceptable professional conduct.

In relation to whether Mr Gillon's actions amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others.

It 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.

For the reasons set out above, the findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

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

In summary, having found the facts of allegations 1 and 2 proved, the panel further found that Mr Gillon'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. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely:

- the safeguarding and wellbeing of pupils;
- the maintenance of public confidence in the profession; and
- declaring and upholding proper standards of conduct.

In the light of the panel's findings, which involved a breach of professional boundaries concerning a vulnerable pupil over a prolonged time period, there was a strong public interest in the safeguarding and wellbeing of pupils.

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

The panel also determined that there was a public interest in terms of Mr Gillon remaining in the profession. No doubt had been cast upon his abilities as a teacher. To the contrary, there was clear evidence that he had made a very positive contribution to teaching over the course of a long and unblemished career. The panel heard from Individual A, a retired teacher, who described Mr Gillon as an exceptional practitioner. It was also presented with references and testimonials.

Further, whilst the misconduct took place over a prolonged period and was serious, this was an isolated episode in the context of Mr Gillon's career as a whole. Mr Gillon had retired, was offering private tuition and was presently unclear as to whether he would seek to return to the classroom and in what capacity. The panel considered if he did so,

that he could make a positive, valuable contribution to the profession as an experienced mathematics teacher.

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, also taking into account the effect that this would have on Mr Gillon.

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 Gillon. 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;
- abuse of position or trust (particularly involving pupils);
- failure to act on evidence that indicated a child's welfare may have been at risk; and
- deliberate behaviour that undermines pupils, the profession, the school or colleagues.

Having found that some of the behaviours 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 considered the following mitigating factors were present in this case:

- Mr Gillon had not been subject to any previous regulatory proceedings. He had an otherwise unblemished record over the course of a long and successful career, progressing to the role head of mathematics and a senior teacher at the School. Mr Gillon also addressed his wider contribution to the School, in terms of pastoral matters, as a form tutor, in relation to data analysis and with reference to the curriculum.
- Mr Gillon had continued to have a role in education, privately tutoring students with a view to potentially returning to a teaching role.
- In his written and oral evidence, Mr Gillon made reference to challenging personal circumstances at the time of these events. Not least, the allegations coincided with the national lockdown in place as part of the response to the Covid-19 pandemic. [REDACTED]. Mr Gillon lived alone and referred to the isolation that he felt in this

period. [REDACTED]. Mr Gillon also addressed [REDACTED] that impacted upon him during the course of the pandemic over and above the continuation of his teaching and other professional duties at this challenging time. The panel accepted that the combination of these factors was likely to have caused Mr Gillon anxiety and that formed part of the backdrop to his actions. That said, Mr Gillon remained responsible for his actions and was not acting under duress.

- This was an isolated episode in the context of Mr Gillon's career as a whole.
- [REDACTED]
- Mr Gillon provided references and testimonials, which depicted him in a positive manner and were very carefully considered by the panel. As noted, the panel also heard positive evidence from Individual A who was a senior, very experienced teacher who had worked with Mr Gillon for a very long period.
- Mr Gillon fully participated in these proceedings and admitted all of the allegations. He was realistic in accepting that his actions amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.
- Mr Gillon had apologised for his actions and shown some regret and remorse. He recognised and accepted that he had fallen short of the standards expected of him.
- Mr Gillon had also shown insight. He had reflected on events and accepted responsibility for his own failings
- It was not alleged that Mr Gillon was improperly motivated. The panel was satisfied that he was, certainly initially, concerned with the pupil's wellbeing. He fully accepted that he went about things in a way that was completely wrong and that matters evolved inappropriately.
- Mr Gillon was first suspended in 2020. Following the referral to the TRA, Mr Gillon was also made subject to an interim prohibition order and at that point it was alleged that he was improperly motivated. It follows that these proceedings had already had a significant impact, and the threat of a permanent prohibition order had been hanging over Mr Gillon for a considerable period of time. There was evidence as to the impact of these events on Mr Gillon's health.

Weighed against these matters, the panel considered there were some aggravating factors present, including:

- Mr Gillon's actions had the potential to cause harm in relation to Pupil A, for example in terms of feelings of dependency. However, there was no evidence of actual harm and the panel also took into account that it was certainly possible,

even likely, that Mr Gillon will have provided some valuable support during what was [REDACTED] for the child.

- Mr Gillon also accepted that he was using Pupil A for support and that the relationship evolved into a friendship. That was clearly inappropriate. Mr Gillon was equally culpable for instigating the communications, the nature and content of which were inappropriate for the reasons set out.
- Mr Gillon's conduct amounted to a breach of the Teachers' Standards.
- Mr Gillon was in a position of trust and responsibility as well as a role model. The panel considered he ought to have known what was expected of him, as a highly experienced teacher who had been trained in safeguarding matters throughout his career, and should have conducted himself accordingly.
- This was a protracted instance of misconduct and the volume of messages and the period of time over which they were exchanged were aggravating features of this case.
- Mr Gillon knowingly used a personal email address and mobile phone. In this respect, the panel considered that Mr Gillon had sought to downplay his wrongdoing by reference to how he set up and used his various email accounts. In particular, Mr Gillon suggested that he simply pressed reply and did not address his mind to the issue of whether that meant he was using a personal account. Even if that were the case, and the panel considered this was an area in which Mr Gillon was slightly evasive, it did not detract from his knowing use of his mobile phone and WhatsApp, which he must have known was wrong. It followed that the panel was satisfied that Mr Gillon was acting consciously and deliberately.
- The same point arose in relation to the fact that the communications were a clear breach of the School's policies and procedures. Mr Gillon accepted he was aware of this at the time. It followed that he deliberately flouted the School's processes, despite his position as an experienced practitioner.
- Some of the language used by Mr Gillon, repeatedly, was highly personal and over-familiar. It was certainly inappropriate as between a teacher and a pupil.
- There was an element of secrecy whereby Mr Gillon did not disclose the nature or extent of the contact to the School. Insofar as Pupil A disclosed concerns about his wellbeing to Mr Gillon, they were not reported on all occasions and formal processes were not followed.

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, on balance, a recommendation of no prohibition order would be both a proportionate and an appropriate response.

The nature of the proven conduct in this case was serious for the reasons outlined.

This was an instance of professional boundaries being breached over a prolonged period and with a vulnerable pupil. This meant there was a strong public interest in terms of the safeguarding and wellbeing of pupils, maintaining public confidence in the profession and declaring and upholding proper standards of conduct.

For the reasons outlined, particularly in terms of some of the content of the communications, Mr Gillon's actions were also highly inappropriate.

However, having considered the mitigating factors present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case for the following reasons in particular.

First, this was an isolated episode in the context of Mr Gillon's career as a whole. The particular time period was clearly one that presented significant difficulties for Mr Gillon in terms of the Covid-19 pandemic and his personal circumstances.

Secondly, Mr Gillon's actions were, whilst highly inappropriate, misconceived and not malicious. This was not a malevolent course of conduct but a gradual eroding of boundaries, in a specific context, that reached the point where Mr Gillon's role evolved, inappropriately, into a friendship.

Thirdly, the panel carefully considered whether there was a risk of repetition and concluded that risk was limited. Mr Gillon had sufficient insight, regret and remorse. He understood that what he had done was wrong and took responsibility for his actions.

Having gone through this experience, the panel considered it was unlikely that Mr Gillon would put himself in the same situation again. These proceedings and the preceding investigation had been ongoing for several years. This was also an isolated episode in the context of his career as a whole. The panel was satisfied, on balance, it was more likely than not that Mr Gillon will have learnt important lessons, and his mistakes were unlikely to be repeated.

[REDACTED]

In light of all these matters and the other mitigating factors identified above, the panel determined that a recommendation for a prohibition order would not be appropriate or proportionate in this case.

Having very carefully taken account of the public interest considerations Mr Gillon's proven conduct gave rise to, the panel considered that the publication of the adverse findings it has made would be sufficient to send an appropriate message as to the standards of behaviour that were acceptable.

When considered in conjunction with Mr Gillon's long and distinguished career and the fact that he had shown sufficient insight, regret and remorse, the panel did not think that his proven actions were fundamentally incompatible with his being a teacher.

The panel considered this was a proportionate outcome, which struck a fair balance between the public interest and Mr Gillon's interests, particularly in circumstances where the panel's published findings will likely have a residual impact in terms of his professional reputation and future employment prospects.

Further, the panel considered that the passage of time since these concerns first came to light and the repercussions there had been for Mr Gillon, particularly with reference to the interim prohibition order, meant that a prohibition order would now be punitive and disproportionate.

In the panel's judgement, this recommendation protects pupils, given the limited risk of repetition, maintains public confidence and upholds professional standards.

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

The panel has made a recommendation to the Secretary of State that 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 David Gillon is in breach of the following standards:

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

The panel finds that the conduct of Mr Gillon fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Gillon, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "Mr Gillon's failings occurred over a prolonged period of time and without appropriate transparency in terms of the School's knowledge. He used personal communication methods and devices, and the volume of messages was an aggravating feature. At times, messages were exchanged late at night and there were occasions when Mr Gillon would send follow-up messages if Pupil A did not respond. The content and language was frequently inappropriate, was not limited to Pupil A's wellbeing and was unrelated to school matters. Mr Gillon expressly invited Pupil A to address him using Mr Gillon's first name at a time when Pupil A remained on the School's roll." A prohibition order would prevent the risk of such behaviour from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which it set out as follows, "Mr Gillon fully participated in these proceedings and admitted all of the allegations. He was realistic in accepting that his actions amounted to unacceptable

professional conduct and conduct that may bring the profession into disrepute.” The panel also recorded that, “Mr Gillon had apologised for his actions and shown some regret and remorse. He recognised and accepted that he had fallen short of the standards expected of him.” and also that “Mr Gillon had also shown insight. He had reflected on events and accepted responsibility for his own failings.” 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 observed that, “For the reasons set out above, the findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.”

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

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

I have also considered the impact of a prohibition order on Mr Gillon himself. The panel observed that, “Mr Gillon provided references and testimonials, which depicted him in a positive manner and were very carefully considered by the panel. As noted, the panel also heard positive evidence from Individual A who was a senior, very experienced teacher who had worked with Mr Gillon for a very long period.” Elsewhere, the panel refer to Mr Gillon’s “long and distinguished” career.

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

In this case, I have placed considerable weight on the panel’s comments concerning the degree of insight and remorse demonstrated by Mr Gillon. I have also reflected on the panel’s remarks regarding the low risk of such behaviour being repeated, including that “Having gone through this experience, the panel considered it was unlikely that Mr Gillon would put himself in the same situation again. These proceedings and the preceding investigation had been ongoing for several years. This was also an isolated episode in the context of his career as a whole. The panel was satisfied, on balance, it was more likely than not that Mr Gillon will have learnt important lessons, and his mistakes were unlikely to be repeated.”

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 'M. Cavey', enclosed within a thin black rectangular border.

Decision maker: Marc Cavey

Date: 24 October 2023

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