



Teaching
Regulation
Agency

Mr Thomas Moss: Professional conduct panel outcome

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

December 2023

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

| | |
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| Teacher: | Mr Thomas Moss |
| Teacher ref number: | 1685663 |
| Teacher date of birth: | 22 October 1994 |
| TRA reference: | 21162 |
| Date of determination: | 6 December 2023 |
| Former employer: | Belvedere Academy (“the Academy”) |

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4 December 2023 – 6 December 2023 by virtual means to consider the case of Mr Thomas Moss.

The panel members were Mr Ian McKim (lay panellist – in the chair), Ms Debra Vaughan (lay panellist) and Ms Aruna Sharma (teacher panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Miss Matilda Heselton of Browne Jacobson LLP solicitors.

Mr Moss was not present and was not represented.

The hearing took place in public save that some parts were heard in private to protect the identity of Pupil A. The hearing was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 20 September 2023.

It was alleged that Mr Moss was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at the Belvedere Academy, he:

1. He engaged in and/or developed an inappropriate relationship with Pupil A, including by:
 - a. obtaining Pupil A's personal number;
 - b. communicating with Pupil A via;
 - i. Whatsapp;
 - ii. school email outside of school hours and/or during weekends;
 - c. meeting Pupil A on a one-to-one basis outside of the school's premises on one or more occasions;
 - d. inviting Pupil A to and/or allowing Pupil A inside his home accommodation on one or more occasions;
 - e. engaging in sexual activity with Pupil A shortly after she was no longer on the school roll;
2. His behaviour as may be proven at 1. above was conduct of a sexual nature and/or sexually motivated.

Mr Moss denied the allegations and denied that he was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Proceeding in absence

In order to consider this application, the panel decided to admit a bundle of late evidence provided by the presenting officer consisting of correspondence with Mr Moss, proof of delivery documents, the signed statement of Pupil A, a notice of an application to admit hearsay evidence and correspondence with the Taking of Evidence Unit of the Foreign and Commonwealth Office (the "Late Evidence Bundle"). The panel considered these documents were relevant to ascertain whether the notice of hearing had been served and whether Mr Moss intended to attend; whether Pupil A was prepared to sign the statement of truth attesting to her evidence; and in due course, in order for the panel to consider the presenting officer's application to admit hearsay evidence.

The panel considered that it was fair to admit these documents:

- in order to establish whether Mr Moss had properly been served with notice of the hearing, his position regarding attendance at the hearing, as well as the extent to which witnesses would be in attendance;
- because Mr Moss already had notice of the content of Pupil A's evidence; and
- if the hearing proceeds, the panel could only fairly consider the presenting officer's application to admit hearsay evidence if it had evidence as to the reason that the relevant witnesses would not be attending the hearing to testify.

The panel then considered the presenting officer's application to proceed in Mr Moss's absence.

The panel was satisfied that TRA has complied with the service requirements of paragraph 19(1) (a) to (c) of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 5.23 and 5.24 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020, (the "Procedures").

The panel determined to exercise its discretion under paragraph 5.47 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel took as its starting point the principle from R v Jones that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in GMC v Adeogba & Visvardis.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel has firstly taken account of the various factors drawn to its attention from the case of R v Jones [2003] 1 AC 1.

A notice of proceedings was sent to Mr Moss on 20 September 2023 by post and a delivery receipt evidences that it was delivered on 21 September 2023 and signed for by "Moss". On 13 November 2023, the presenting officer sent the paginated hearing bundle to Mr Moss by post, having previously only sent it by email on 1 September 2023. On 14 November 2023, Mr Moss completed a form responding to the notice of proceedings. This stated that he did not intend to be present at the hearing, nor did he intend to be represented at the hearing. On 27 November 2023, the TRA sent an email to Mr Moss, stating that the draft hearing bundle was originally sent to Mr Moss by email and asking whether Mr Moss was prepared to waive his right to have the draft hearing bundle by

post ten weeks before the hearing date. Mr Moss responded by email, "I am fine for the hearing to go ahead without me on the 4th of December". The panel noted that the bundle was sent by post in compliance with the Regulations. Paragraph 5.36 of the Procedures requires that the bundle be served at least ten weeks before the hearing. Pursuant to paragraph 1.5 of the Procedures, such a requirement may be waived where there is agreement between the TRA and the teacher prior to the hearing commencing, as is the case here. The panel therefore considers that the teacher had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.

There was no evidence that adjourning the hearing would be likely to facilitate Mr Moss's attendance, nor had Mr Moss expressed any wish to adjourn to obtain legal representation. Any adjournment would be for a minimum of ten weeks in order that the notice of proceedings could be effectively re-served.

The panel had the benefit of representations made by the teacher and was able to ascertain the lines of defence. The panel noted that two of the witnesses relied upon were to be called to give evidence and the panel could test that evidence in questioning those witnesses, considering such points as were favourable to the teacher, as were reasonably available on the evidence. The panel was also able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard the teacher's account.

No reason was provided by Mr Moss as to his non-attendance. There was nothing to indicate that he was involuntarily absent, and he had been clear that he did not intend to attend.

The panel recognised that the allegations against Mr Moss were serious and that there was a real risk that if proven, the panel would be required to consider whether to recommend that the teacher ought to be prohibited from teaching.

The panel recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the profession. The conduct alleged was said to have taken place whilst the teacher was employed at the Academy. The Academy, Pupil A and her family would have an interest in this hearing taking place in order to move forwards.

The panel noted that other than the two witnesses who could not attend, there were a further two witnesses prepared to give evidence, and that it would be inconvenient to have to re-arrange their attendance for a future hearing. Delaying the case may have also impacted upon the memories of those witnesses.

The panel decided to proceed with the hearing in the absence of the teacher. The panel considered that the balance is in favour of this hearing continuing in light of:

- Mr Moss’s waiver of his right to appear;
- that Mr Moss would be unlikely to appear if the hearing was re-scheduled.
- the inconvenience an adjournment would cause to the witnesses;
- the public interest in this hearing proceeding within a reasonable time; and
- the measures available referred to above to address any unfairness insofar as was possible.

Admission of hearsay evidence

The presenting officer applied to admit the witness statements of Pupil A and Witness D. The presenting officer explained that both Pupil A and Witness D were prepared to give evidence. However, both witnesses were overseas. As such the presenting officer had to make enquiries with the Taking of Evidence (“TOE”) Unit of the Foreign, Commonwealth & Development Office (“FCDO”) given the understanding among nation states that one state should not exercise the powers of its courts within the territory of another, without having the permission of that other state to do so. The presenting officer adduced an email dated 23 October 2023 from the TOE Unit confirming it had contacted the relevant governments to enquire whether they had an objection to the witnesses giving video evidence from their respective countries. That email stated that the TOE Unit had been unable to reach agreement with the respective governments and the FCDO would recommend that the taking of evidence should not take place at this time.

Having been notified of the presenting officer’s intended application to admit Pupil A’s evidence and Witness D’s evidence as hearsay, Mr Moss provided written representations. He confirmed that he was content for Pupil A’s evidence to be admitted as hearsay, and “would rather it be treated in the same way as all other evidence due to its valid and factual information”. Mr Moss stated that if Witness D’s evidence was to be admitted, he wished for it to be referred to as hearsay, although he would prefer that it was removed as he did not believe that it was valid, coherent or factual and that it distracted from the case.

Under paragraph 5.33 of the 2020 Procedures, the panel may admit any evidence, where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel was satisfied that the documents are relevant to the case. The allegations concern Mr Moss’s alleged relationship with Pupil A, and her evidence is therefore key. Witness D provided her account of the matters leading up to her reporting her concerns to the [REDACTED] of the Academy, and was therefore relevant to the issue of whether Mr Moss’s actions were appropriate.

The central question for the panel was whether it was fair in the circumstances to allow evidence to be put forward by the presenting officer without the opportunity for the witnesses to be questioned about their evidence.

The panel took account of the efforts made to secure the attendance of the witnesses and concluded that given the TOE Unit's email, there was nothing further that could have facilitated the witnesses' attendance at this hearing. The panel considered whether additional time could facilitate further enquiries to be made by the TOE Unit, but there was no indication that the position would change, nor how long this might take, and the panel was conscious that there was a public interest in the hearing proceeding in a reasonable time. Whilst there was some evidence that Pupil A might return to the UK in approximately [REDACTED]' time, there was no evidence before the panel to suggest either witness would be present in the jurisdiction for sufficiently long enough to attend a hearing in person in the near future. Any future attendance by Pupil A and Witness D would also have to be co-ordinated with the attendance of Witness B and Witness C who were prepared to give oral evidence in the present hearing period.

The panel had regard to the seriousness of the allegations in this case, and that it is open to the panel to recommend prohibition in this case if the allegations are found proven.

The panel also considered the importance of the evidence and whether it constituted a critical part of the evidence against Mr Moss. The panel noted that the evidence of Pupil A is key. However, the panel noted that Mr Moss's representations indicated that he does not dispute factually what took place between them, nor when the matters took place, and only disputes whether that conduct was inappropriate and sexually motivated. Furthermore, the panel has the benefit of email exchanges between Mr Moss and Pupil A that will enable it to ascertain the nature of their relationship at that time. Witness D's evidence goes to the issue of whether Mr Moss's actions were appropriate or not, an issue that the panel will have to assess considering all of the other evidence available to it.

In the circumstances, given that the witnesses were willing to attend, the narrow issues in dispute and the other evidence available in this case, the panel decided that there were sufficient safeguards to protect the teacher against any unfairness caused by being unable to question these witnesses. The panel will be provided with a hearsay warning in due course, and the panel will determine what weight, if any, it should attach to the evidence.

With regard to the overall question of fairness, the panel decided that it would be fair to admit both the witness statements of Pupil A and Witness D. Although the witness statement of Pupil A has only recently been signed, a draft statement had been provided to Mr Moss well in advance of the hearing together with Witness D's signed witness statement. The panel noted Mr Moss had had the opportunity to make representations in relation to the evidence provided by Witness D and the panel could take these into account when considering her evidence.

By reason of the above, the panel decided to admit the witness statements of Pupil A and Witness D.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 5 to 6

Section 2: Notice of proceedings and response – pages 7 to 19

Section 3: Teaching Regulation Agency witness statements – pages 20 to 45

Section 4: Teaching Regulation Agency documents – pages 46 to 334

Section 5: Teacher documents – pages 335 to 340

In addition, the panel agreed to accept the Late Evidence Bundle consisting of 36 pages.

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

Witnesses

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

Witness B –[REDACTED]; and

Witness C – [REDACTED].

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 4 September 2017, Mr Moss commenced employment at the Academy as a teacher of chemistry. On 17 March 2022, Witness D reported concerns about Mr Moss's relationship with Pupil A. On 18 March 2022, Mr Moss was suspended. On 5 May 2022 Mr Moss submitted his resignation from his post and his employment with the Academy ceased on 27 June 2022. On 11 October 2022, following the conclusion of the Academy's disciplinary process, the Academy referred Mr Moss to the TRA.

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:

Whilst employed at the Belvedere Academy, you:

1. You engaged in and/or developed an inappropriate relationship with Pupil A, including by:

b. communicating with Pupil A via;

i. Whatsapp;

Pupil A's witness statement stated that she and Mr Moss communicated over WhatsApp after she asked her [REDACTED] for Mr Moss's number.

Pupil A's account was corroborated by Mr Moss's representations. These state that he "was in contact with Pupil A via whatsapp after she had left the school and after Pupil A's [REDACTED] had given Pupil A my number.."

The panel considered that it was more probable than not that Mr Moss had communicated with Pupil A via WhatsApp. The panel did not have sight of the WhatsApp messages exchanged between Mr Moss and Pupil A. The panel understood this form of communication to have likely commenced whilst Pupil A remained on the school roll given that Pupil A stated that she had obtained Mr Moss's phone number from her [REDACTED] around a month or [REDACTED].

Witness C gave oral evidence that it was never acceptable for a teacher in the Academy to use WhatsApp to communicate with a pupil, unless the teacher was communicating with their own child.

The panel considered that the use of WhatsApp indicated that the professional boundaries between teacher and pupil were blurred. Those boundaries should have continued to have been maintained for a reasonable period after Pupil A left the Academy given the nature of the relationship that existed whilst she was a pupil of the Academy. For example, Mr Moss had been acting as a [REDACTED] and in the course of that role, he had learned that Pupil A [REDACTED] and had come into possession of a significant amount of sensitive personal information. The panel considered that Mr Moss had engaged in and/or developed an inappropriate relationship with Pupil A by communicating with her via WhatsApp.

ii. school email outside of school hours and/or during weekends;

Pupil A stated in her witness statement that she was [REDACTED]", he became her [REDACTED] both academically and on a more personal level and she described it as a

normal teacher and pupil relationship. It appeared to the panel that Pupil A was mistaken as to the date that Mr Moss became a [REDACTED], and that this was more likely to have been some time earlier given that Pupil A left the roll of the [REDACTED]. Witness C's witness statement stated that Mr Moss academically [REDACTED].

Pupil A stated that during the time that Mr Moss [REDACTED] her, they were in a period of lockdown due to Covid 19, so the number of meetings reduced, although she was on the Academy site every day and would meet Mr Moss if he was in. She stated that during the time that Mr Moss was [REDACTED], they did email outside of school hours but not excessively. She stated that over emails, they would discuss the times they would be available for meetings in school or questions relating to her academic studies.

Witness C stated in her witness statement that the [REDACTED]. at the Academy Trust had arranged for a search to be carried out of Mr Moss's emails. She confirmed in oral evidence that the search was conducted to identify any of Mr Moss's emails that referred to Pupil A. Witness C was not aware of any examination conducted regarding the extent or timing of his communications with other pupils. Similarly, she did not know if there was any system that would flag use of email that might be regarded as excessive by other teachers, so there was no evidence as to whether Mr Moss's use of email was comparable with that of other teachers.

Witness C gave evidence that the emails Mr Moss had been exchanging with Pupil A were not recorded on any of the Academy's systems so no other individual knew the content or timing of their exchanges. She stated that a teacher might send an occasional email with a pupil with regards to a safeguarding issue, but she would expect that another member of staff would be copied in, and that it would be recorded on the Academy's systems.

Mr Moss provided representations confirming that he had exchanged multiple emails outside of Academy hours with Pupil A. He stated that "this unfortunately was during work hours for me as I worked often between 6/7pm and 12pm as well as during weekends. The school encouraged us to use emails on our phones, as well as google classroom and authentication apps for school software as well as the many school Instagram accounts. All of these things normalised out of school contact hours with members of the schools senior leadership team frequently contacting staff outside of these working hours. All of the emails that I sent to Pupil A during these times were to keep in contact with her and support her. A lot of these emails were also sent during Covid lockdowns when this type of normal communication that would take place in person when interacting with pupils such as showing pictures of pets and general conversations for example would no longer happen."

The hearing bundle contained over 150 pages of emails exchanged between Pupil A and Mr Moss. The panel reviewed these emails. It considered that even in the context of a [REDACTED] relationship between pupil and student, the number of emails exchanged was excessive. By way of example, an extract of the emails included a continuous

exchange between Mr Moss and Pupil A from 8:12 pm to 11:54pm continuing through until 12:07am on 24 March 2021. The dialogue then recommenced at 6:31pm on 24 March 2021 and continued until 11:44pm. This included emails regarding Pupil A's wellbeing, but also discussions about a television series. The panel also saw similar emails that were being exchanged on weekends.

The panel did not necessarily consider that it was inherently inappropriate to send an email out of Academy hours provided an immediate response was not expected. However, exchanges back and forth, late at night, between Mr Moss and Pupil A were inappropriate. The panel noted that the emails were "chatty" in their tone. Day to day conversations unrelated to academic studies may well be part of normal rapport between teachers and pupils within the Academy environment. That environment is public and deters any inappropriate behaviour. Email exchanges may have replaced rapport of this nature in situations where in person contact is limited. However, the exchange of emails between teacher and pupil late at night, without the presence of others, was inappropriate. The panel considered that the tone, quantity and timing of the emails indicated that Mr Moss had engaged in and/or developed an inappropriate relationship with Pupil A.

c. meeting Pupil A on a one-to-one basis outside of the school's premises on one or more occasions;

Pupil A's statement referred to having communicated with Mr Moss over WhatsApp and having started to "meet up alone occasionally". [REDACTED] After a while, Pupil A stated "[they] would get food together..." [REDACTED].

Mr Moss corroborated Pupil A's account. He stated that he had met with Pupil A after she had left the Academy and after she had received his telephone number from her [REDACTED]. He stated that this, from his perspective, was continuing as family friends. [REDACTED]"

The panel found that it was more probable than not that Mr Moss had met Pupil A on a one-to-one basis outside of the Academy's premises on one or more occasions.

The panel considered that this indicated that the professional boundaries between teacher and pupil were blurred. Those boundaries should have continued to have been maintained for a reasonable period after Pupil A left the Academy given the nature of the relationship that existed whilst she was a pupil of the Academy. Although there was no detailed guidance on this provided by the Academy at the time, Mr Moss sought no advice as to whether his continued contact with Pupil A was appropriate. In the panel's view, even in the absence of written guidance, a professional teacher should be alert to the maintenance of boundaries at all times. The panel considered that Mr Moss had engaged in and/or developed an inappropriate relationship with Pupil A by meeting Pupil A on a one-to-one basis outside of the Academy's premises on one or more occasions.

d. inviting Pupil A to and/or allowing Pupil A inside his home accommodation on one or more occasions;

Pupil A's witness statement stated that after a while [REDACTED], she and Mr Moss would get food together and she "started spending time with him at his house and [they] would make or have dinner. Mr Moss drove, so he would often pick [her] up from places or drop [her] off home as [she] didn't drive."

Mr Moss's representations corroborated Pupil A's account. He confirmed that he met with Pupil A at his home after she left the Academy in keeping with continuing a relationship as a family friend and that Pupil A's mother had been fully aware of this. He stated that during the time that he was friends with Pupil A after she had left the Academy, he was helping her [REDACTED].

The panel found that it was more probable than not that Mr Moss had invited Pupil A to and/or allowed Pupil A inside his home accommodation on one or more occasions.

The panel considered that this indicated that the professional boundaries between teacher and pupil were blurred. Those boundaries should have continued to have been maintained for a reasonable period after Pupil A left the Academy given the nature of the relationship that existed whilst she was a pupil of the Academy. Although there was no detailed guidance on this provided by the Academy at the time, Mr Moss sought no advice as to whether his continued contact with Pupil A, including within his own home, was appropriate. In the panel's view, even in the absence of written guidance, a professional teacher should be alert to the maintenance of boundaries at all times. The panel considered that Mr Moss had engaged in and/or developed an inappropriate relationship with Pupil A by inviting Pupil A to and/or allowed Pupil A inside his home accommodation on one or more occasions.

e. engaging in sexual activity with Pupil A shortly after she was no longer on the school roll;

Pupil A's witness statement stated that "we started dating around September time and I can't really remember how it happened. I do know that we were just good friends and got on very well, so it just developed naturally. In or around September the relationship became intimate and we continued dating until it ended in December 2021."

Mr Moss's representations corroborated Pupil A's account. He stated that "We had grown very close over a number of months as friends after she had left school and fallen for each other. This was not either of our intentions as far as I am aware and did not happen straight away." He also referred to Pupil A's statement containing valid and factual information.

The panel found that it was more probable than not that Mr Moss had engaged in sexual activity with Pupil A shortly after she was no longer on the roll of the Academy.

The panel considered that professional boundaries should have continued to have been maintained for a reasonable period after Pupil A left the Academy given the nature of the relationship that existed whilst she was a pupil of the Academy. The panel considered that Mr Moss had engaged in and/or developed an inappropriate relationship with Pupil A by engaging in sexual activity with Pupil A shortly after she was no longer on the school roll.

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

The panel had seen the emails exchanged between Pupil A and Mr Moss. These exchanges occurred whilst Pupil A was a pupil of the Academy. Whilst overly friendly, there were no exchanges of a sexual nature. The panel did not consider these were sexually motivated given that the relationship did not become a sexual one until some time later in September 2021.

The panel had not seen the WhatsApp messages exchanged between Pupil A and Mr Moss. The panel did not infer these were of a sexual nature and/or sexually motivated given that the relationship did not become a sexual one until approximately three months later.

The panel noted that Mr Moss has stated that he perceived that meeting with Pupil A on a one-to-one basis was continuing a family friendship. At least initially, there was no evidence upon which the panel might infer his conduct was of a sexual nature and/or sexually motivated.

With regard to the conduct found proven that Mr Moss invited Pupil A to his home and/or allowed Pupil A inside his home, the panel noted that Mr Moss had stated that he was continuing his relationship with Pupil A as a family friend. He explained that during this time that he was friends with Pupil A after she left the Academy, he was helping her [REDACTED]"

The panel noted that conduct is sexual if because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual. Inviting Pupil A into Mr Moss's home represented a considerable escalation in their relationship. The panel considered that reasonable persons would consider that inviting Pupil A into his home and/or allowing Pupil A inside his home could be sexual. In circumstances where shortly afterwards the relationship became a sexual one, the panel considered that it was more likely than not that Mr Moss's purpose was a sexual one, in that it was in pursuit of a future sexual relationship.

Engaging in sexual activity with Pupil A was by its very nature conduct of a sexual nature and sexually motivated.

The panel found the following particulars of the allegations against you not proved, for these reasons:

1. You engaged in and/or developed an inappropriate relationship with Pupil A, including by:

a. obtaining Pupil A's personal number;

Pupil A's witness statement stated "around a month or so after I had finished my A-level exams in June, I asked my [REDACTED] for Mr Moss' number." Witness B corroborated this in oral evidence. She stated that she knew Pupil A and Mr Moss had already been exchanging emails and that she had not been suspicious about it because she considered their exchanges to be "in the school setting", and that their emails would therefore have been available to be scrutinised.

Mr Moss's response to the allegations stated that he did not "obtain" and seek out Pupil A's phone number. He stated that [REDACTED]."

All of the evidence indicates that Pupil A obtained Mr Moss's number from her [REDACTED] and therefore Mr Moss only came into possession of her personal number as a result of Pupil A contacting him using it. In those circumstances, the panel did not consider that Mr Moss's subsequent possession of Pupil A's number was indicative of an inappropriate relationship. The panel did not find it proven that it was more probable than not that Mr Moss had engaged in or developed an inappropriate relationship with Pupil A by obtaining her personal number.

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

Having found a number of 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.

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 Moss in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Moss 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...

The panel was satisfied that the conduct of Mr Moss fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Mr Moss's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 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 was relevant.

The panel noted that some of the allegations took place outside the education setting. However, the conduct affected the way Mr Moss fulfilled his teaching role. The public would not expect a teacher, in a position of trust, to engage in an inappropriate relationship with a pupil or to engage in sexual activity with a pupil shortly after the pupil left the Academy.

Accordingly, the panel was satisfied that Mr Moss was guilty of unacceptable professional conduct.

The panel went on to consider whether Mr Moss was guilty of conduct that may bring the profession into disrepute. The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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.

In considering the issue of disrepute, the panel also considered whether Mr Moss's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 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 conduct that may bring the profession into disrepute. As referred to above, the panel found that none of these offences was relevant.

The panel noted that the advice is not intended to be exhaustive and there may be other behaviours that panels consider to be "conduct that may bring the profession into disrepute". The public would expect a teacher to maintain professional boundaries with a pupil for a reasonable period of time. Mr Moss was in a position of trust, and engaging in or developing a relationship with a pupil towards the end of their time as a pupil and immediately thereafter puts that position of trust at risk.

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.

The panel considered that Mr Moss's conduct could potentially damage the public's perception of a teacher.

The panel therefore found that Mr Moss's actions 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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Moss and whether a prohibition order is necessary and proportionate. 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 the following to be relevant in this case: the safeguarding and wellbeing of pupils; the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of having engaged in and/or developed an inappropriate relationship with a pupil and engaged in a sexual relationship with that pupil shortly after she ceased to be a pupil.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Moss 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 Moss 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, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession. Mr Moss had been promoted to head of year 10 at the Academy, having joined the Academy as a position of teacher of science on 4 September 2017, that being his first qualified position. Mr Moss would likely have demonstrated strengths as a teacher to have been promoted in this manner.

However, whilst there is evidence that Mr Moss had ability as an educator, the panel considered that the adverse public interest considerations above outweighed any interest in retaining Mr Moss in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and the relationship was built upon his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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...;

- abuse of position or trust (particularly involving vulnerable pupils);

- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;

- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

The panel noted that the relationship escalated from online behaviours namely exchanges by email and by WhatsApp into a sexual relationship.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider the mitigation offered by the teacher and whether there were mitigating circumstances.

In the light of the panel's findings, Mr Moss's actions were deliberate.

There was no evidence to suggest that Mr Moss was acting under extreme duress, e.g. a physical threat or significant intimidation. The extensive email communications with Pupil A developed in the context of Covid 19 lockdowns, and Mr Moss has stated that during

that time he began to struggle with [REDACTED] but has since been well supported and “coming out of the other side of this now”.

Mr Moss did have a previously good history, although there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or that he contributed significantly to the education sector. In his representations to the panel, Mr Moss stated that he now plans to continue in a different career.

Mr Moss did not provide any statements or references attesting to his good character. The bundle contained two references from the time of his application to the Academy. The first of these was a reference from Liverpool Hope University confirming his completion of the PGCE course indicating that he had achieved the professional standards necessary for the award of qualified teacher status. The second reference was from a teacher at the Academy who assessed Mr Moss’s performance as good or outstanding whilst Mr Moss was completing his placement as part of his PGCE.

Mr Moss has recognised that he made mistakes and took decisions that he would not make again, but maintains that he sometimes “did the right thing in supporting [Pupil A]”. He has stated that “at no point were my actions done to cause harm or were they sexually motivated”. He has said that he is “sorry for everything but the opinions put out there by some people that I am some sort of monster who planned everything is completely false”. He also stated “the person I was two years ago is long gone and buried, he was not a bad person but he made some stupid mistakes but with the best intentions, naivety and a desire to be wanted probably sums him up best.” When interviewed as part of the Academy’s investigation, Mr Moss stated that “he felt that he put a gap between the position of trust and starting a relationship with her (between June and September).” The panel considered Mr Moss to have been naïve in this respect and ought to have understood the need to maintain professional barriers for a reasonable time after Pupil A had left the Academy. He does not appear to have yet developed insight that the professional barriers in his relationship with Pupil A were being broken down before Pupil A left the Academy and why that was inappropriate. He has not yet understood the potential impact on Pupil A of his actions.

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, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Moss of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr

Moss. Failing to maintain professional boundaries with a pupil and former pupil is a serious matter given the consequences that can have for a pupil. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. Whilst the panel considered Mr Moss's conduct to be sufficiently serious to require prohibition, the panel noted the proximity in his age to that of Pupil A and that Pupil A was over the age of 18 when the relationship became sexual. The boundaries were broken during the time of the Covid 19 pandemic, and the relationship might not have developed in the manner that Mr Moss allowed it to, had that not been the case. The panel did not consider there was a particular risk of repetition but that Mr Moss had not yet developed appropriate insight as to the potential consequences of his actions.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period after five years.

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 both sanction and review period.

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven (including allegation 1.a). I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Thomas Moss should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Mr Moss 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...

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

The findings of misconduct are particularly serious as they include a finding of engaging in and/or developing an inappropriate relationship with a pupil, and engaging in sexual activity with a former pupil shortly after the pupil was no longer on the school roll.

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 likely to 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 Moss, 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 that "some of the allegations took place outside the education setting. However, the conduct affected the way Mr Moss fulfilled his teaching role. The public would not expect a teacher, in a position of trust, to engage in an inappropriate relationship with a pupil or to engage in sexual activity with a pupil shortly after the pupil left the Academy." 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 has set out as follows, "When interviewed as part of the Academy's investigation,

Mr Moss stated that “he felt that he put a gap between the position of trust and starting a relationship with her (between June and September).” The panel considered Mr Moss to have been naïve in this respect and ought to have understood the need to maintain professional barriers for a reasonable time after Pupil A had left the Academy. He does not appear to have yet developed insight that the professional barriers in his relationship with Pupil A were being broken down before Pupil A left the Academy and why that was inappropriate. He has not yet understood the potential impact on Pupil A of his actions.” In my judgement, the lack of insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. 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 has observed that “The public would expect a teacher to maintain professional boundaries with a pupil for a reasonable period of time. Mr Moss was in a position of trust, and engaging in or developing a relationship with a pupil towards the end of their time as a pupil and immediately thereafter puts that position of trust at risk.” I am particularly mindful of the finding that Mr Moss engaged in sexual activity with a former pupil shortly after the pupil had left the school and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct 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 Moss himself. The panel has commented that “there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession. Mr Moss had been promoted to head of year 10 at the Academy, having joined the Academy as a position of teacher of science on 4 September 2017, that being his first qualified position. Mr Moss would likely have demonstrated strengths as a teacher to have been promoted in this manner.”

The panel has also noted that “Mr Moss did have a previously good history, although there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or that he contributed significantly to the education sector. In his representations to the panel, Mr Moss stated that he now plans to continue in a different career.”

A prohibition order would prevent Mr Moss from returning to teaching. A prohibition order would also clearly deprive the public of his potential 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 lack of insight and remorse. The panel has said, "The panel did not consider there was a particular risk of repetition but that Mr Moss had not yet developed appropriate insight as to the potential consequences of his actions."

I have also placed considerable weight on the finding of the panel that "the public interest considerations outweighed the interests of Mr Moss. Failing to maintain professional boundaries with a pupil and former pupil is a serious matter given the consequences that can have for a pupil." Mr Moss had engaged in a sexual relationship with a pupil shortly after they had ceased to be a pupil.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Moss has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by insight and remorse, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

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

I have considered the panel's comments, "The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases include serious sexual misconduct, e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. Whilst the panel considered Mr Moss's conduct to be sufficiently serious to require prohibition, the panel noted the proximity in his age to that of Pupil A and that Pupil A was over the age of 18 when the relationship became sexual. The boundaries were broken during the time of the Covid 19 pandemic, and the relationship might not have developed in the manner that Mr Moss allowed it to, had that not been the case."

I have considered whether a five year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that, in my judgment, a five year review period is proportionate and justified. These elements are the seriousness of the findings

of an inappropriate relationship with a pupil and sexual activity with that pupil shortly after they had left the school, and the lack of insight and remorse.

I consider therefore that a five year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Thomas Moss is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 13 December 2028, five years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Moss remains prohibited from teaching indefinitely.

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

Mr Moss has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'D Oatley', written in a cursive style.

Decision maker: David Oatley

Date: 8 December 2023

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