



Teaching  
Regulation  
Agency

# **Dr Stephane Clerc: Professional conduct panel outcome**

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

**December 2023**

## Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	5
Documents	5
Witnesses	5
Decision and reasons	5
Findings of fact	6
Panel's recommendation to the Secretary of State	17
Decision and reasons on behalf of the Secretary of State	21

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

**Teacher:** Dr Stephane Clerc

**TRA reference:** 21260

**Date of determination:** 15 December 2023

**Former employer:** David Nieper Academy, Derbyshire

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 13 to 15 December 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Dr Stephane Clerc who was employed at David Nieper Academy ('the School').

The panel members were Mr Richard Young (lay panellist – in the chair), Ms Laura Mullin (lay panellist) and Ms Jessica Sheldrick (teacher panellist).

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

The presenting officer for the TRA was Ms Sherelle Appleby of Browne Jacobson solicitors.

Dr Clerc was present and was represented by Mr Nick Kennan of Cornwall Street Chambers, instructed by the National Education Union.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 3 October 2023.

It was alleged that Dr Stephane Clerc was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst employed as a teacher of French at David Nieper Academy between June 2022 and September 2022:

1. He failed to maintain professional boundaries with one or more pupils and/or engaged in unprofessional behaviour, by:
  - a. Communicating on social media with:
    - Pupil A;
    - Pupil B; and
    - Pupil C
  - b. Organising to meet and/or meeting Pupil B outside of the School's premises;
2. He sought to mislead the School in regards to his communication with one or more pupils on social media by:
  - a. Providing the School with edited and/or limited copies of social media messages which did not reflect the entirety of your communication with one or more pupils; and
  - b. He informed the School that Pupil C had contacted him first on social media when in fact he had contacted Pupil C first on social media.
3. His conduct as may be found proven at allegation 2 above lacked integrity and/or was dishonest.

Dr Clerc admitted allegations 1(a), 1(b), 2(a) and 3. Dr Clerc denied allegation 2(b). Dr Clerc admitted that the conduct complained of may amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## Preliminary applications

There were no preliminary applications.

## Summary of evidence

### Documents

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

- Section 1: Notice of hearing – pages 6 to 17
- Section 2: Anonymised pupil list – page 19
- Section 3: TRA witness statements – pages 21 to 97
- Section 4: TRA documents – pages 99 to 163
- Section 5: Teacher documents – pages 165 to 202.

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

### Witnesses

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

- Witness A, [REDACTED]
- Witness B, [REDACTED]

The panel also heard oral evidence from Dr Clerc.

## Decision and reasons

The panel announced its decision and reasons as follows:

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

Dr Clerc commenced employment as a teacher of French at David Nieper Academy on 1 September 2011.

On 12 September 2022, the School's [REDACTED], Individual A, was informed by a [REDACTED] that Dr Clerc had messaged Pupil A via Facebook Messenger. This was reported to Witness A, [REDACTED].

During an initial conversation between Witness A and Dr Clerc, Dr Clerc disclosed that he had spoken to more than one pupil on social media, namely Pupil A, Pupil B and Pupil C. Further, Dr Clerc disclosed that he had visited the home of Pupil B.

On 12 September 2022, Dr Clerc sent an email to the School with screenshots of some of his conversations with the pupils.

Pupil C was asked to send screenshots to the School of the messages between her and Dr Clerc.

On 20 September 2022, Dr Clerc was interviewed by Witness B, [REDACTED].

On 21 September 2022, Dr Clerc sent a revised statement to the School with additional screenshots of his conversation with Pupil C.

The matter was referred to the TRA in November 2022.

## Findings of fact

The findings of fact are as follows:

**1. You failed to maintain professional boundaries with one or more pupils and/or engaged in unprofessional behaviour, by;**

**a. Communicating on social media with**

**i. Pupil A**

The panel was provided with a copy of the screenshots of messages between Pupil A and Dr Clerc which appeared to have been exchanged on 9 August 2022. Dr Clerc had sent Pupil A a message which read *“Hi [Pupil A], just want to say thank you for your lovely card and the chocolates. We are enjoying them while on holiday. With moderation of course its been a real pleasure having you in my form”,* to which she replied *‘it’s okay. Hope your [sic] having a good holiday’.*

Dr Clerc then sent Pupil A a further message reading *“we are...thank you... in Devon... I hope you have a lovely break. Not long b4 you have the [REDACTED] results now”.*

The panel considered the oral evidence and witness statement of Witness A.

Witness A submitted that, during her conversation with Dr Clerc on 12 September 2022, Dr Clerc admitted that he had corresponded with Pupil A.

Witness A also gave evidence in respect of the School’s policies relating to contact with pupils and former pupils. Witness A submitted that Dr Clerc had received training in respect of safeguarding, the staff code of conduct and the School’s IT Acceptable Use Policy. The panel was provided with a copy of the documents and Dr Clerc’s signed training documents and noted that the staff code of conduct dated Autumn 2020, in particular, set out the expectations of staff in respect of relationships with students. The staff code of conduct indicated that staff must not establish or seek to establish social

contact with students or former students for the purpose of securing a friendship or to pursue or strengthen a relationship.

Further, the staff code of conduct stated that contact with students should be through the School's authorised mechanisms and that communication routes via all social media platforms should not be used. In addition, if a member of staff is contacted via an inappropriate route, the staff member should inform the Headteacher immediately.

The panel was provided with evidence that, on 13 September 2022, Dr Clerc had confirmed that he had read, understood and agreed to comply with the School's code of conduct.

The panel considered the oral evidence and witness statement of Witness B. Witness B confirmed that, whilst he did not receive any screenshots from Pupil A, her statement was entirely consistent with Dr Clerc's recollection of events in that he contacted Pupil A to thank her for the chocolates.

The panel noted that Dr Clerc admitted allegation 1(a)(i).

In his evidence, Dr Clerc admitted that he did communicate with Pupil A on social media in August 2022 and that he should not have done so. Dr Clerc explained that he messaged Pupil A purely to thank her for chocolates she had given him as a present. Dr Clerc submitted that he was eating chocolates in the evening with [REDACTED] while on holiday and that he decided to thank Pupil A for the kind gesture.

Dr Clerc submitted that he thought Pupil A had left the School and was not going to be checking her School emails anymore. On this point, the panel heard the evidence of Witness B in which he confirmed that, at all material times, Pupils A, B and C would have had access to their School emails, albeit they may not have been used regularly.

Dr Clerc stated that there were no more than three messages exchanged and that he had no other social media conversations with Pupil A.

Dr Clerc submitted that it was not the content of the messages that was inappropriate, but the fact that he communicated with Pupil A via Facebook Messenger.

The panel acknowledged that the issue was not with the content of the messages, but the fact that Dr Clerc communicated with Pupil A via social media in itself amounted to a failure to maintain appropriate boundaries and/or demonstrated unprofessional behaviour. The panel considered that there were alternative methods of communication available to Dr Clerc, even if School emails were not being regularly accessed.

The panel therefore found allegation 1(a)(i) proven.

## ii. Pupil B

The panel noted the screenshots of messages between Pupil B and Dr Clerc. The panel noted the content of the messages between Pupil B and Dr Clerc, which related to Dr Clerc returning Pupil B's [REDACTED] folders to Pupil B.

The panel noted that the conversation was initiated by Dr Clerc, in which he asked Pupil B if she would like him to drop the [REDACTED] folder off one afternoon on his way back home, or to pass it to a sixth former in September. Pupil B responded to say *“yes I would love you to bring them to me as may be helpful next year as I struggle in [REDACTED] and have a slight feeling of not passing so would be helpful for me to have them”*. Dr Clerc responded to state that he would let Pupil B know of his whereabouts in the next few days. Pupil B explained to Dr Clerc that, if it was easier, Dr Clerc could pass the folders on to Individual D who could bring them to her.

The messages then indicate a further exchange in which Dr Clerc enquired as to Pupil B's whereabouts and agreed to drop the [REDACTED] folder off at a specific location at 4.15pm that day, or alternatively, could drop them at Pupil B's home. Pupil B confirmed that he could drop them at her home and confirmed her address.

The panel noted that Dr Clerc had asked whether the “here” referred to by Pupil B was at [REDACTED] home but did not confirm that a [REDACTED] would be present.

The panel noted the evidence of Witness A in which she confirmed that, on 12 September 2022, Dr Clerc admitted that he had communicated with Pupil B via social media.

The panel noted that Dr Clerc admitted allegation 1(a)(ii).

Dr Clerc admitted that he communicated with Pupil B on social media in July 2022 but stated that this was purely in relation to arranging the return of Pupil B's [REDACTED] folders. Dr Clerc's evidence was that he discovered some of Pupil B's work left behind when clearing his classroom. When this was not collected by another pupil as previously arranged, he contacted her on social media to ask what she wanted to do with it. Dr Clerc submitted that he did not think she would be checking her School email as she had now left the School having finished her exams.

Dr Clerc explained that the communication was coming from a good heart and that he had no other social media conversations with Pupil B. Dr Clerc stated that, with hindsight, he should have looked for a telephone contact and called her home, but that he thought he was doing Pupil B a favour and meant no harm.

In respect of Pupil B, the panel considered that the purpose of Dr Clerc's contact with Pupil B was to return the [REDACTED] folder and found that there was no evidence that the contact was made for the purpose of securing a friendship or to pursue or strengthen a



relationship. However, the panel considered that the fact that Dr Clerc communicated with Pupil B via social media amounted to a failure to maintain appropriate boundaries and/or demonstrated unprofessional behaviour. The panel considered that there were alternative methods of communication available to Dr Clerc, even if School emails were not being regularly accessed.

The panel therefore found allegation 1(a)(ii) proven.

### **iii. Pupil C**

The panel noted the screenshots of messages between Pupil C and Dr Clerc. The panel noted numerous messages between Pupil C and Dr Clerc from 23 June 2022 to 6 September 2022.

The panel noted that the first message, sent by Dr Clerc, appeared to be in response to a friend request sent by Pupil C to Dr Clerc on Facebook. In his first message, Dr Clerc informed Pupil C that he could not accept her friend request.

The panel noted that, following Dr Clerc's initial message in response to the friend request, further messages were exchanged. Whilst some of the messages related to academic matters such as grades and the next steps in Pupil C's education, many of the messages were entirely personal in nature. The panel noted further messages, some of which were initiated by Dr Clerc, relating to matters such as holiday plans, Pupil C's part-time work and Pupil C's health.

The panel noted the evidence of Witness A in which she confirmed that, on 12 September 2022, Dr Clerc admitted that he had communicated with Pupil C via social media.

The panel noted the evidence of Dr Clerc. Dr Clerc admitted that he communicated with Pupil C on several occasions on social media between June 2022 and September 2022.

Dr Clerc admitted that he should not have responded to her friend request. Dr Clerc stated that, with hindsight, he should have informed a School designated safeguarding officer that she had sent a request.

Dr Clerc further admitted that he should not have had further conversations with Pupil C, although he submitted that, in his view, these were innocent. Dr Clerc stated that, in hindsight, and whilst there was nothing untoward in his behaviour and the messages contained nothing "*sinister*", he should not have spoken to Pupil C and that he made an error of judgement in speaking to her on social media.

Dr Clerc admitted that, while many of the conversations between him and Pupil C related to academic matters, some were of a more personal nature. Dr Clerc admitted that these

messages were “*overfamiliar*”, but stated to the panel that the reason for this may have been that he knew Pupil C well, having taught Pupil C [REDACTED].

Dr Clerc submitted that he always cared for Pupil C’s wellbeing and education. Dr Clerc stated that he was always seeking to give a positive message and be supportive.

The panel considered the evidence presented to it and noted that Dr Clerc had engaged in prolonged personal discussions with Pupil C via social media. The panel considered that both the content and method of the communications amounted to a failure to maintain appropriate boundaries and/or demonstrated unprofessional behaviour.

The panel therefore found allegation 1(a)(iii) proven.

#### **b. Organising to meet and/or meeting Pupil B outside of the School’s premises**

The panel noted the screenshots of messages between Pupil B and Dr Clerc which confirmed an arrangement between Dr Clerc and Pupil B to meet at Pupil B’s home for the purpose of Dr Clerc returning Pupil B’s [REDACTED] folder.

The panel noted that it was Dr Clerc who suggested he could return the [REDACTED] folder to Pupil B’s home.

The panel noted the evidence of Witness A in which she submitted that she had an initial conversation with Dr Clerc, during which Dr Clerc advised that he had gone to the house of Pupil B, but that her [REDACTED] was there at the time. Witness A’ evidence was that she informed Dr Clerc that he should have told someone he was going to a pupil’s house as teaching staff do not routinely go to pupil’s houses. Witness A submitted that she would have expected him to speak to his line manager or somebody in the School so that they were aware of this information. Witness A’ evidence was that she told Dr Clerc that it was fine to attend a pupil’s house as long as he had consent from the School or had made someone aware, especially if he did not know whether Pupil B’s parents were going to be there.

The panel also considered the evidence of Witness B who, during his oral evidence, confirmed that there would have been no issue with Dr Clerc returning the [REDACTED] folder to Pupil B’s home had this been suggested by Pupil B and should Dr Clerc have informed the School that this visit was to take place. Witness B submitted that Dr Clerc should have made someone else aware that he was returning the [REDACTED] folder to Pupil B’s home, or alternatively made a record of his visit.

The panel noted that Dr Clerc admitted allegation 1(b).

The panel considered the evidence of Dr Clerc who explained that he did organise to meet Pupil B outside of School premises, but that this related to the return of her [REDACTED]

folders. Dr Clerc's recollection was that Pupil B had asked him not to throw away the [REDACTED] folders as they could be useful should she not pass her [REDACTED] exam. Dr Clerc explained that he drove past where she lived every day on his way to and from work.

Dr Clerc submitted that, when he arrived at her home, Pupil B's [REDACTED] and [REDACTED] were present. Pupil B's [REDACTED] invited him into the home, but he declined in order to maintain boundaries. Dr Clerc stated that it did not cross his mind to inform anyone at the School or to record his visit on SIMS, however had not realised that this was required and subsequently recognised that this was a mistake.

The panel considered that, in itself, returning a [REDACTED] folder to a pupil's home would not necessarily amount to a failure to maintain appropriate boundaries and/or demonstrate unprofessional behaviour. However, the fact that it was returned without the knowledge of the School, without checking that a parent would be present and that it was organised via social media amounted to a failure to maintain appropriate boundaries and/or unprofessional behaviour.

The panel therefore found allegation 1(b) proven.

**2. You sought to mislead the School in regards to your communication with one or more pupils on social media by;**

**a. Providing the School with edited and/or limited copies of social media messages which did not reflect the entirety of your communication with one or more pupils;**

**b. You informed the School that Pupil C had contacted you first on social media when in fact you had contacted Pupil C first on social media.**

The panel considered the evidence of Witness A. Witness A submitted that, after a conversation with Dr Clerc on 12 September 2022, she asked him to draft and send across a statement outlining his contact with the pupils and to attach screenshots of his conversations with the pupils, giving as much detail as possible.

The panel considered the screenshots that Dr Clerc initially provided to the School in an email dated 12 September 2022. The screenshots sent on 12 September 2022 showed a limited conversation with Pupil C relating to her [REDACTED], and a further, limited conversation with Pupil B in which Dr Clerc arranged to return her [REDACTED] folders.

Witness A described the email sent by Dr Clerc as "*exceptionally brief*" and submitted that the screenshot of the conversations with Pupil B and Pupil C that Dr Clerc provided were briefer than Dr Clerc had alluded to when Witness A had her first conversation with Dr Clerc.

The panel had sight of a further email from Witness A, sent immediately after Dr Clerc's first disclosure, in which she asked for a full report on the sequence of events, along with the dates and times for the communication with Pupil A. Witness A stated that, after this email, she did not receive any further disclosure from Dr Clerc.

The panel considered the evidence of Witness B. Witness B submitted that he was appointed to investigate the allegations and that, prior to interviewing Dr Clerc on 20 September 2022, he spoke to Dr Clerc and gave him time to prepare for the meeting. Witness A's evidence was that, prior to this interview, he had interviewed Pupils A, B and C and had, in particular, asked Pupil C to send across the screenshots of the messages with Dr Clerc.

Witness B submitted that, having received the screenshots from Pupil C, he compared the disclosure with what Dr Clerc had shared with him as part of the investigation process. Witness B stated that, during his interview with Dr Clerc on 20 September 2022, he asked Dr Clerc on two occasions whether he wished to amend his statement or share anything else, to which Dr Clerc stated that his statement was accurate. Witness A's evidence was that it was clear that Dr Clerc had not shared everything with him, so he asked him a further two or three times whether he wished to disclose any further information.

Witness B submitted that, on the evening of 20 September 2022, he telephoned Dr Clerc to explain that his statement was inconsistent with other evidence received in the course of the investigation. Witness B stated that Dr Clerc asked if it was to do with Pupil C, which Witness B confirmed. The panel was provided with a copy of an email dated 20 September 2022 in which Witness B explained to Dr Clerc that his account was inconsistent and asked him to share any additional information.

On 21 September 2022 at 12.30pm, Dr Clerc emailed Witness B with screenshots of messages between himself and Pupil C. The screenshots reflected a short conversation via Facebook Messenger which appeared to commence on 6 September 2022.

Witness A submitted that the amended statement did not include all of the communications which were reflected by the screenshots sent by Pupil C. Witness B then replied to Dr Clerc's email at 2.37pm on 21 September 2022 asking him to again consider whether there was any further information he wished to provide.

Dr Clerc sent a further email to Witness B on 21 September 2022 at 2.47pm containing further screenshots of his conversation with Pupil C. The panel noted that the screenshots disclosed on 21 September 2022 indicated an extensive conversation between Dr Clerc and Pupil C, as opposed to the very limited conversation indicated by the screenshots initially disclosed by Dr Clerc. The panel also noted that the screenshots disclosed by Dr Clerc on 21 September 2022 indicated that there were messages that

were 'unsent' by Dr Clerc. The panel understood this to be an attempt by Dr Clerc to delete the messages.

The panel also considered the screenshots sent by Pupil C of the messages between her and Dr Clerc.

The panel noted that Dr Clerc admitted allegation 2(a) but denied allegation 2(b).

The panel considered the evidence of Dr Clerc who explained that, when the allegation was first made, he panicked and deleted some messages and did not send the entire conversation with Pupil C. Dr Clerc submitted that, although the messages were innocent, he was worried they would be misinterpreted. However, Dr Clerc submitted that he quickly realised he was making an error of judgement and stopped deleting messages straight away.

Dr Clerc submitted that he was upset and stressed and genuinely believed he had initially sent everything to the School. Dr Clerc referred to the fact that the screenshots were sent in September and that he had to go back to June to find the messages. It was Dr Clerc's position that he had got a new phone over the summer and did not know how to take screenshots on his new phone. Dr Clerc further submitted that, when he realised his mistakes, he sent two separate emails to the School with screenshots of further conversations with Pupil B. Dr Clerc's evidence was that he did finally provide a screenshot using his laptop, which took him some time.

In respect of allegation 2(b), Dr Clerc submitted that Pupil C did make the first contact with him by sending a Facebook friend request.

Dr Clerc further submitted that Pupil C admitted to the School during the course of the investigation that she had initiated the contact on social media.

In respect of allegation 2(a), the panel did not accept Dr Clerc's evidence in respect of the sending of the screenshots of the social media messages to the School.

The panel noted that Dr Clerc was able to provide the School with accurate copies of the conversations with Pupil A and Pupil B. The panel found that there was no justifiable reason why, if Dr Clerc was able to provide copies of the conversations with Pupil A and Pupil B, he could not have done so in respect of Pupil C.

The panel further noted that Dr Clerc was asked to provide screenshots of his conversations with the pupils on numerous occasions from his initial conversation with Witness A on 12 September 2022 until the eventual disclosure on 21 September 2022. The panel considered that Dr Clerc had ample opportunity to fully disclose the conversations with Pupil C and noted that there was no evidence that Dr Clerc had made the School aware of the alleged difficulties that he was having with his new mobile phone or that further conversations were to follow.

The panel also considered the content of the messages which were disclosed. In the disclosure on 12 September 2022, the conversation appeared to be limited to a conversation in August 2022 about Pupil C's [REDACTED] grade. However, the eventual full disclosure by Dr Clerc showed extensive conversation between Dr Clerc and Pupil C which did not relate solely to academic matters.

The panel accepted Dr Clerc's evidence that he panicked but did not accept that failing to disclose the full screenshots was a genuine mistake. The panel noted that, initially, Dr Clerc disclosed only a limited part of a conversation which related to academic matters. The panel noted that this conversation took place in August 2022 and was only part of the conversations which took place between June 2022 and September 2022. The panel further noted that full disclosure was only made after various attempts by staff at the School to obtain the information during which it was made clear that there were inconsistencies. The panel therefore considered that Dr Clerc sought to mislead the School both as to the nature and the extent of his conversations with Pupil C and found allegation 2(a) proven.

In respect of allegation 2(b), the panel noted that the documents appeared to indicate that Pupil C had contacted Dr Clerc first via social media by sending Dr Clerc a friend request. Notwithstanding the fact that Dr Clerc sent the first message on Facebook messenger, Dr Clerc did not appear to have initiated contact with Pupil C, and therefore Dr Clerc's statement that Pupil C had contacted him first was not untrue and therefore could not have been an attempt by him to mislead the School. The panel therefore found allegation 2(b) not proven.

The panel found allegation 2(a) proven and allegation 2(b) not proven.

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

The panel noted that Dr Clerc admitted allegation 3.

The panel noted the evidence of Dr Clerc in which he explained that, once he realised he had not sent all of the information, he did panic and made several errors of judgement. However, Dr Clerc submitted that he meant no harm to anyone. Dr Clerc further submitted that he had been open throughout the process, referring to the conversation with Witness A on 12 September 2022 in which he voluntarily disclosed the fact that he had communicated with Pupils B and C. Dr Clerc also referred to the investigation process in which Dr Clerc voluntarily disclosed that he had received further messages from Pupil C in October 2022, copies of which were not provided to the panel.

The panel firstly considered whether Dr Clerc had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*.

The panel considered that Dr Clerc had failed to act within the higher standards expected of a teacher by his conduct found proven at allegation 2(a).

Dr Clerc provided misleading information and/or failed to disclose relevant information to the School when requested to provide a statement and screenshots in respect of his conversations with Pupil C. This information was relevant to an allegation that Dr Clerc had been engaging in conversations with pupils via social media. As a teacher, Dr Clerc would have appreciated the importance of the School conducting a thorough investigation into such allegations, and he should have assisted the School fully in the investigation. The information was relevant to the School and would be relevant to any school which had been presented with such allegations.

The panel was satisfied that Dr Clerc's conduct, as found proven, lacked integrity.

The panel then considered whether Dr Clerc had acted dishonestly. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel firstly sought to ascertain the actual state of Dr Clerc's knowledge or belief as to the facts. The panel concluded that Dr Clerc's conduct as found proven at allegation 2(a) was dishonest; Dr Clerc admitted that he had panicked and deleted some messages. Further, the panel did not accept that the initial failure to provide the full conversations with Pupil C was a mistake and considered that Dr Clerc had deliberately withheld the information from the School prior to his full disclosure on 21 September 2022. The panel considered that Dr Clerc had been dishonest according to the standards of ordinary decent people.

The panel considered it more likely than not that Dr Clerc provided edited and/or limited copies of social media messages with Pupil C in order to conceal relevant information from the School's investigation into his conduct. The panel considered that Dr Clerc continued to conceal relevant information until his full disclosure on 21 September 2022, despite various requests for full disclosure of the social media messages.

The panel found allegation 3 proven.

### **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 Dr Clerc, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Dr Clerc 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.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel considered paragraph 21 of the Advice and in particular that unacceptable professional conduct is misconduct of a serious nature.

The panel found that there was misconduct, which was accepted by Dr Clerc. However, the panel was not satisfied that this amounted to serious misconduct which fell significantly short of the standard expected of a teacher. In relation to the specific allegations, the panel considered that the messages sent to Pupils A and B may have been acceptable if sent via School email, and further considered that returning the [REDACTED] folder to Pupil B may have been acceptable had this been arranged via an alternative method and had the School been notified. In respect of the communications with Pupil C, the panel considered that some of the messages were overly friendly in nature but did not consider that this was sufficiently serious to amount to unacceptable professional conduct. In respect of allegations 2(a) and 3, whilst the panel had concluded that Dr Clerc had sought to mislead the School, any dishonesty or lack of integrity displayed by this conduct was limited and ultimately Dr Clerc provided all of the information requested.

The panel also considered whether Dr Clerc's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice, however found that none of these offences was relevant. In particular, the panel did not consider that any dishonesty found proven amounted to serious dishonesty.

Accordingly, the panel was not satisfied that Dr Clerc was guilty of unacceptable professional conduct.

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can



hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The 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 considered that, in particular, it would be a basic expectation by the public that teachers would not engage in personal messages with pupils via social media and that teachers would engage fully with any investigation involving pupils from the outset.

The panel therefore found that Dr Clerc'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 should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.

The panel was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

The panel found that Dr Clerc had failed to maintain professional boundaries and/or engaged in unprofessional behaviour with Pupils A, B and C. In light of these findings, there was a public interest consideration in respect of the safeguarding and wellbeing of pupils.

Similarly, the panel considered that public confidence in the profession could be weakened if conduct such as that found against Dr Clerc was not treated seriously when regulating the conduct of the profession.

The panel was of the view that there was also a public interest consideration in declaring proper standards of conduct in the profession as the conduct found against Dr Clerc was outside that which could reasonably be tolerated.

The panel determined that there was also public interest consideration in retaining Dr Clerc in the profession, since no doubt had been cast upon his abilities as an educator and, in the panel's view, he is able to make a valuable contribution to the profession.

The panel considered that the conduct, although serious, was at the lower end of the scale of severity.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Dr Clerc. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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 Dr Clerc. 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:

- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests; and
- collusion or concealment including:
  - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions.

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Dr Clerc's actions were not deliberate.

There was no evidence to suggest that Dr Clerc was acting under extreme duress.

However, the panel was provided with evidence to attest to Dr Clerc's history and ability as a teacher.

In particular, the panel noted the evidence of Witness A in which she stated that, prior to these incidents, there were no issues or concerns raised in respect of Dr Clerc's behaviour. Witness A stated that Dr Clerc had a good relationship with pupils, appeared

to be proud of the pupils he taught and what they had achieved. Witness A further stated that Dr Clerc was passionate about teaching children French, and he would engage in a number of activities to bring out the “joyous” side of the subject. Witness A described Dr Clerc as a teacher who cared deeply about his subject and wanted the best for his students.

The panel also noted the evidence of Witness B. Witness B stated that Dr Clerc’s relationships with staff and pupils were always very pastoral and described Dr Clerc as a friendly and lively character. Witness B described Dr Clerc as a very active form tutor who cared for pupils and always had the best interests of his pupils at heart. Witness B stated that, if the School had extracurricular or after school events, Dr Clerc was a teacher who would always be there to provide support. Witness A’s evidence was that Dr Clerc was a teacher who had a positive and appropriate interest in the lives of pupils he taught.

The panel noted that Dr Clerc’s written submission in which he accepted all responsibility for having contacted the pupils and accepted that he had made an error of judgement in relation to the messages. Dr Clerc further submitted that the error of judgement was out of character and that, in his 11 years of teaching, he had never contacted students on social media before.

Dr Clerc submitted that his motivations for contacting Pupil A and Pupil B were purely innocent and an attempt to be helpful. In respect of Pupil C, he submitted that he initially thought he did the right thing in responding to her and explaining why he could not accept her request, however acknowledged that he should have informed a designated safeguarding officer and/or called home. He described himself as foolish to continue the messages, however stated that his motivation was to be positive and supportive for his former pupil.

Dr Clerc submitted that, when the issue was raised by the School in respect of Pupil C, he was under a lot of stress and panicked. He further submitted that he quickly realised that what he had done was not right and made sure to send everything he could to the School. Dr Clerc referred also to the fact that he voluntarily disclosed the fact that he had engaged in conversations with Pupils A and B, which the panel noted was supported by the evidence of Witness A.

Dr Clerc stated that he had reflected on his actions and would not make mistakes again. Further, Dr Clerc stated that he would be willing to attend further safeguarding training.

Dr Clerc provided written character references from the following individuals:

- Individual B, [REDACTED]
- Individual C, [REDACTED]

The written evidence contained positive comments about Dr Clerc and his ability as a teacher. The panel noted the following in particular:

- *“it was very out of character for him to break any rules and I am certain he did not do so deliberately”*
- *“when he was teaching he would always spend hours and hours at the weekend and in the evenings preparing lessons, marking etc”*
- *“I have always found him to be an honest hard-working and kind individual who would go the extra mile to be helpful”*
- *“Teaching is his vocation, he is a very talented and experienced practitioner and his abilities are wasted”*

The panel was also presented with written student testimonials which contained positive comments, including, in particular:

- *“He is always willing to help me and has helped me to achieve the grade I will get”*
- *“He has worked extremely hard to help me with my French coursework and lessons”*
- *“You’re really encouraging and supportive and make me feel better about my progress in French... I can tell you want the best for all of us”*
- *“You’re easy to talk to [and] an amazing teacher overall.”*

In his witness statement and oral evidence, Dr Clerc expressed regret and readily acknowledged his error in judgement. The panel found that Dr Clerc demonstrated clear remorse and insight.

Taking these factors into account the panel was satisfied that the risk of Dr Clerc repeating his behaviour was low.

There was no evidence that Dr Clerc demonstrated exceptionally high standards in both personal and professional conduct, or that he had contributed significantly to the education sector. However, the panel recognised from the evidence provided to it that Dr Clerc was a committed educator, who was passionate about teaching and his subject.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response.

Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.

On the basis that Dr Clerc had shown insight into his misconduct and demonstrated a willingness to engage in further safeguarding training, the panel was of the view that prohibiting Dr Clerc would not produce any material change or serve any useful purpose.

The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

## **Decision and reasons on behalf of the Secretary of State**

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

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

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

In this case, the panel has also found one of the allegations not proven (Allegation 2b). I have, therefore, put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that the findings of 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 Dr Stephane Clerc 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.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.

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

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In assessing 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 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 Dr Clerc, 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 recorded that it, "...found that Dr Clerc had failed to maintain professional boundaries and/or engaged in unprofessional behaviour with Pupils A, B and C. In light of these findings, there was a public interest consideration in respect of the safeguarding and wellbeing of pupils." A prohibition order would therefore prevent such a risk from being present in the future. I do note, however, that Dr Clerc has stated his willingness to attend further safeguarding training in the future.

I have also taken into account the panel's comments on insight and remorse, which it set out as follows, "In his witness statement and oral evidence, Dr Clerc expressed regret and readily acknowledged his error in judgement. The panel found that Dr Clerc demonstrated clear remorse and insight." In my judgement, this means that there is a low risk of the repetition of this behaviour. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The 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 considered that, in particular, it would be a basic expectation by the public that teachers would not engage in personal messages with pupils via social media and that teachers would engage fully with any investigation involving pupils from the outset."

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 assess 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 conduct that may bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Dr Clerc himself. The panel comment that “There was no evidence that Dr Clerc demonstrated exceptionally high standards in both personal and professional conduct, or that he had contributed significantly to the education sector. However, the panel recognised from the evidence provided to it that Dr Clerc was a committed educator, who was passionate about teaching and his subject.” I also note that the panel considered character witness statements and student testimonials which speak to Dr Clerc’s commitment to the profession.

A prohibition order would prevent Dr Clerc 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 Dr Clerc’s insight into, and remorse for, his behaviour which mean that the likelihood of a repetition appears to be low. In addition to the remarks referenced above, the panel has said that it “...noted that Dr Clerc’s written submission in which he accepted all responsibility for having contacted the pupils and accepted that he had made an error of judgement in relation to the messages. Dr Clerc further submitted that the error of judgement was out of character and that, in his 11 years of teaching, he had never contacted students on social media before.”

I have also placed weight on the evidence recorded by the panel which indicate that the behaviour demonstrated by Dr Clerc was untypical, and that it was “...at the less serious end of the possible spectrum...”.

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

A handwritten signature in black ink, appearing to read 'Marc Cavey', with a long horizontal line extending from the end of the signature.

**Decision maker: Marc Cavey**

**Date: 19 December 2023**

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