



Teaching  
Regulation  
Agency

# **Mr Enda Feeney: 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                                 | 5  |
| Summary of evidence                                      | 7  |
| Documents  | 7  |
| Witnesses  | 7  |
| Decision and reasons                                     | 7  |
| Findings of fact   | 8  |
| Panel's recommendation to the Secretary of State         | 16 |
| Decision and reasons on behalf of the Secretary of State | 20 |

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

|                               |                                     |
|-------------------------------|-------------------------------------|
| <b>Teacher:</b>               | Mr Enda Feeney                      |
| <b>Teacher ref number:</b>    | 8713663                             |
| <b>Teacher date of birth:</b> | 23 April 1965                       |
| <b>TRA reference:</b>         | 20934                               |
| <b>Date of determination:</b> | 19 December 2023                    |
| <b>Former employer:</b>       | Trinity Catholic High School, Essex |

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 18 December to 19 December 2023 by way of a virtual hearing, to consider the case of Mr Enda Feeney.

The panel members were Mr Alan Wells (former teacher panellist – in the chair), Mrs Beverley Montgomery (lay panellist) and Mrs Jessica Sheldrick (teacher panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Lee Bridges of Kingsley Napley LLP solicitors.

Mr Enda Feeney was not present, nor was his representative, Mr Christopher Ford of NASUWT Greater London Region.

The hearing took place by way of a virtual hearing in public and was recorded.

## Allegations

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

It was alleged that Mr Enda Feeney was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as a teacher at Trinity Catholic High School:

1. Between around September 2020 and March 2021, he sent messages of an inappropriate and/or sexual nature to Pupil A, including messages as set out in Schedule 1;
2. In around February 2021 he arranged to meet Pupil A in person outside School;
3. In around February 2021 he gave Pupil A money in exchange for her not reporting him;
4. His conduct at paragraphs 1 and/or 2 and/or 3 was sexually motivated and/or of a sexual nature.
5. His conduct at paragraph 3 was;
  - a. Dishonest
  - b. Lacking integrity.

### Schedule 1

- i. “Would you ever consider having a fling with me?”
- ii. “Would you meet up every now and then”
- iii. “I like you so it would be pretty much up to what you wanted” [when asked what he wanted to meet up for]
- iv. “Would you be up for cuddles and kisses, for instance? Are you still a virgin?”
- v. “Any chance of sending me a pic. Doesn’t have to be naughty [wink emoji]”.

In his response to the notice of referral, signed on 13 June 2023, Mr Feeney admitted allegations 2, 3, 5(a), 5(b) and admitted sending the messages set out in Schedule 1, but denied allegations 1 and 4.

A letter from Mr Feeney's representative dated 28 April 2023 confirmed that Mr Feeney partially admitted allegation 4, in that he admitted his conduct at paragraphs 1, 2 and 3 was conduct of a sexual nature.

In a statement of mitigation dated 30 November 2023 Mr Feeney accepted that his actions amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute. He also clarified, in respect of allegation 1, that he denied his interaction with Pupil A took place from September 2020 to March 2021 and stated that it took place over a period of two days.

## Preliminary applications

### Application to proceed in the absence of the teacher

Mr Feeney was not present at the hearing nor was his representative, Mr Christopher Ford of NASUWT Greater London Region. The presenting officer made an application to proceed in the absence of Mr Feeney.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The Notice of Proceedings was dated 20 November 2023 and had not therefore been sent to Mr Feeney 10 weeks before the hearing. However, the panel noted: (a) an email from Mr Feeney's representative dated 20 October 2023 in which he requested that the hearing take place on 18 and 19 December 2023; and (b) an email from Mr Feeney's representative dated 27 October 2023 in which he confirmed that Mr Feeney agreed to waive the 10 week notice period under paragraph 5.23 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures').

The panel was therefore satisfied that Mr Feeney had received notice of the proceedings in accordance with the 2020 Procedures.

The panel concluded that Mr Feeney's absence was voluntary and that he was aware that the matter would proceed in his absence. The panel noted the following emails from Mr Feeney's representative:

- An email dated 27 July 2023 in which he stated *"In order to assist you I can confirm that Mr Feeney will not be in a position to attend a PCP hearing in person, [Redacted]. Nevertheless a written submission will be made as normal in such circumstances."*

- An email dated 20 October 2023 in which he stated, *“As previously notified I can also confirm that Mr Feeney will not be attending the hearing in person.”*
- An email dated 11 December 2023 in which he stated: *“There is no change on the previously communicated position – the Teacher will not be attending the hearing, and neither will I be as his representative.”*

The panel noted that Mr Feeney had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr Feeney was unfit to attend the hearing. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witness of any delay.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Feeney was neither present nor represented.

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

The panel considered a written application from Mr Feeney’s representative dated 1 December 2023 for the entire hearing to be heard in private.

The application was based on the impact on Mr Feeney’s [Redacted]. [Redacted]. The panel heard submissions from the presenting officer on the application before reaching its decision. The presenting officer objected to the application.

Whilst the panel was sympathetic to the possible impact on Mr Feeney’s [Redacted], there was no evidence before it as to the actual impact this matter has had on [Redacted]. Furthermore, the panel was mindful that there is a public interest in professional conduct panel hearings being heard in public and a presumption that such hearings will be heard in public. The panel was also mindful that the decision would be announced publicly even if all or part of the hearing were heard in private.

The panel received legal advice and considered whether Mr Feeney’s application was necessary in the interests of justice; in the public interest; or for the protection of the interests of children. The panel did not consider that it would be in the interests of justice or in the public interest for the entire hearing to be heard in private. The panel was content that any particularly sensitive areas relating to Pupil A or Mr Feeney could be heard in private, should there be a need to do so.

#### Additional document

The bundle of documents before the panel contained a mitigation statement from Mr Feeney. Paragraph 1 of that statement referred to a response from Mr Feeney’s trade union representative submitted on 28 April 2023. It was noted that this document was not

included in the bundle of documents. Given that Mr Feeney was not present at the hearing, and in the interests of fairness to him, this was raised with the presenting officer.

The presenting officer located the document, which was a 5 page letter from Mr Feeney's representative to Kingsley Napley LLP setting out additional information in respect of Mr Feeney's response to the allegations.

There was no specific application to admit the document. The panel concluded that it appeared to be an oversight that the document had not been included in the bundle. The panel was of the view that the document was relevant to the issues it had to be determined and, accordingly, admitted it.

## **Summary of evidence**

### **Documents**

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

- Section 1: Chronology and anonymised individual list – pages 4 to 6
- Section 2: Notice of proceedings and response – pages 7 to 30
- Section 3: TRA witness statements – pages 31 to 35
- Section 4: TRA documents – pages 36 to 141
- Section 5: Teacher documents – pages 142 to 163.

In addition, the panel admitted the letter from Mr Feeney's representative dated 28 April 2023.

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

### **Witnesses**

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

- Witness A [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.

Mr Feeney commenced employment as a biology teacher at Trinity Catholic High School ('the School') on 1 September 1987.

On 1 March 2021, an allegation came to light that Mr Feeney had sent messages to a [Redacted] student, Pupil A, arranged to meet her and had given her money.

On 2 March 2021, a meeting was held with the Local Authority Designated Officer ('LADO'), police and the School. The School was asked to pause investigation pending the outcome of the police investigation.

On 5 March 2021, Mr Feeney was suspended from his role at the School.

On 4 October 2021, the police confirmed that no further action would be taken against Mr Feeney as Pupil A was not willing to provide an evidential statement. The School commenced a disciplinary investigation.

A further meeting between the LADO, police and School was held. The police confirmed that nothing of evidential value was gained from forensic analysis of Mr Feeney's devices.

On 18 October 2021, Mr Feeney was invited to a disciplinary interview, but he did not attend as he was signed off sick.

On 10 November 2021, Mr Feeney did not attend a re-scheduled disciplinary interview but submitted a written statement.

On 12 November 2021, the report was finalised and on 29 November 2021, a disciplinary hearing was held.

On 1 February 2022, a referral was made to the [Redacted].

On 7 July 2022, the [Redacted] made a referral to the TRA.

## **Findings of fact**

The findings of fact are as follows:

- 1. Between around September 2020 and March 2021, you sent messages of an inappropriate and/or sexual nature to Pupil A, including messages as set out in Schedule 1;**

### ***Schedule 1***

***“Would you ever consider having a fling with me?”***

***“Would you meet up every now and then”***



***“I like you so it would be pretty much up to what you wanted” [when asked what he wanted to meet up for]***

***“Would you be up for cuddles and kisses, for instance? Are you still a virgin?”***

***“Any chance of sending me a pic. Doesn’t have to be naughty [wink emoji]”.***

The panel considered the oral evidence and witness statement of Witness A, [Redacted].

Witness A explained that, on 1 March 2021, he received an email from a colleague, Individual A, informing him that a [Redacted] post had gone ‘viral’ within the School. The post alleged that a member of staff had been requesting sexual pictures and asking sexual questions.

Witness A established the social media post had been written by Pupil B, who had been asked to publish the post by Pupil A.

The panel was provided with a screenshot of a [Redacted] post that Pupil B was said to have posted which read as follows:

*“I have decided to make it public bc it just gets worse and worse I was going to leave it and just tell a few close friends about a nonce teacher who has been sexually inappropriate to me asking for nude pictures and asking if I’m a virgin along with many other creepy statements, but after finding out hes done it to other students I’m making it public to students (not telling the School) if you wish to know more abt it just dm me. I decided I was better to say something only telling other girls about it because I’m looking out for yall to literally not get victimised lol. No this is not a joke or weird prank I’m saying it so other girls aren’t nonced on... if you have any questions pls contact [Pupil A] and not me as it’s not my situation to talk about, just trying to spread awareness”. [sic]*

Witness A explained that on the same day he received an email from Pupil A’s [Redacted] informing him that, on 26 February 2021, [Redacted].

Witness A submitted that he contacted Pupil A’s [Redacted] when [Redacted] and he spoke to Pupil A by telephone. Pupil A informed him that some months ago an anonymous person contacted her via [Redacted] and then [Redacted], and started to ask her for nude pictures. Witness A stated that Pupil A informed him that, as the conversation progressed, she worked out that the person was Mr Feeney; there was a photo of him on the social media account and voice recordings of his voice. Pupil A then agreed to meet the individual, who indeed transpired to be Mr Feeney.

Witness A met with Pupil A’s [Redacted], [Redacted] and [Redacted] at the School. He submitted that they brought Pupil A’s laptop and showed him some of the messages which were saved on the laptop. Witness A appended various screenshots to his witness

statement. The panel noted that the following messages were contained within the screenshots:

- *“Would you ever consider having a fling with me”*
- *“Just meeting up every now and again”*
- *“I like you so it would be pretty much up to what you wanted”*
- *“Would you be up for cuddles and kisses for instance.. Are you still a virgin?”.*
- *“any chance of sending me a pic, doesn’t have to be naughty [wink emoji]”.*

The panel noted that these messages matched those set out in Schedule 1, with the exception of *“Just meeting up every now and again”*, which appeared to be incorrectly noted in Schedule 1 as *“Would you meet up every now and then”*.

In his written responses, Mr Feeney admitted to sending the messages outlined in Schedule 1. He denied allegation 1, however his denial appeared to relate to the timing set out in the allegation. He refuted that the messages were exchanged between September 2020 and March 2021 and submitted that his interaction with Pupil A took place over two days.

Having considered the evidence before it and Mr Feeney’s admissions, the panel was satisfied that Mr Feeney sent the messages set out in Schedule 1 to Pupil A, with the exception of *“Would you meet up every now and then”*.

The panel was further satisfied that these messages were sent during the time period set out in the allegation (i.e. sometime between September 2020 and March 2021). However, the panel accepted Mr Feeney’s evidence that the messages were sent over a much shorter period of time, which appeared to be limited to several days and/or weeks in/around February 2021. There was no evidence before the panel that Mr Feeney engaged in sustained communications with Pupil A throughout the entire period between September 2020 and March 2021.

The panel concluded that the messages were clearly both inappropriate and of a sexual nature. It was clearly inappropriate for a teacher to communicate with a pupil in this manner via social media. Furthermore, the messages were overtly sexual in nature in that Mr Feeney had asked Pupil A if she wanted to have a *“fling”* with him, asked if she would be *“up for cuddles and kisses”*, asked if she was *“still a virgin”* and asked for her to send him a picture.

Having considered the evidence before it, and on the balance of probabilities, the panel found allegation 1 proven.

## **2. In around February 2021 you arranged to meet Pupil A in person outside School;**

In his written responses, Mr Feeney admitted allegation 2.

The panel was provided with screenshots of messages that appeared to have been exchanged between Pupil A and another pupil. The panel noted the following comments which appeared to have been made by Pupil A:

*“He met me irl, I didn’t know it was him some random sugar daddy popped up to me saying do you want money u don’t have to do anything or meet me ill drop it at the bus stop. So I was like okay and I get there and its sir and he takes me to his car and asks if I want to stay and I said no and snatched the money and ran [crying face], this was yesterday, don’t tell anyone.” [sic]*

The panel noted the oral evidence and witness statement of Witness A. As outlined above, Witness A said that Pupil A arranged to meet the individual she had been messaging online and that the individual was Mr Feeney. Pupil A told Witness A that Mr Feeney gave Pupil A £20 and invited her to sit in his car.

Witness A also told the panel that he and the Individual B [Redacted] met with Pupil B and Pupil B’s [Redacted] on 5 March 2021. He said that Pupil B came in with prepared notes and walked them through them the notes. He attached the handwritten notes as an exhibit to his witness statement. The panel noted the following extract: *“She said she ended up in a situation where she was in his car...”*

The bundle of documents before the panel contained a summary of a police interview with Mr Feeney, in which Mr Feeney was noted as saying:

*“I out of curiosity downloaded [Redacted] and put some likes on her [Pupil A’s] videos. She wanted to know who I was and after some exchange of text happened she asked how old I was and I said 54 and she asked if I wanted to be her sugar daddy and I must have agreed and she said she would send me naughty pictures for £20. And I don’t know I must have been possessed. She sent me bank details and I didn’t want to do that so arranged money to be collected at a bus stop... I decided not to leave the £20 at the bus stop and when she approached the bus stop, I approached her and told her who I was...”*

Having considered the evidence before it, and on the balance of probabilities, the panel found allegation 2 proven.

## **3. In around February 2021 you gave Pupil A money in exchange for her not reporting you;**

In his written responses, Mr Feeney admitted allegation 3.

In his witness statement, Witness A stated that Pupil A told him there was a further meeting where she took £500 from Mr Feeney, [Redacted].

Witness A appended various screenshots to his witness statement. It appeared from the screenshots that Pupil A was threatening to disclose the messages Mr Feeney had sent her unless he gave her some money: *“I won’t say anything if you pay”*. Mr Feeney asked her to *“call a halt to all this please”* and said, *“if it’s money you want, I can’t get that sort of money”* and *“if you are upset about our chat I can maybe give you £200 to stop all his nonsense”*.

This was supported by the summary of the police interview with Mr Feeney, in which Mr Feeney was noted as saying:

*“I had a screen shot of the picture of me and voice recording and our conversation from [Redacted]*

*sent to me by [Pupil A]. It was like I was in a dream and it just hit me, she said if I don’t give her £3000 by the end of the month she would send it to work I thought my life was over... after an exchange we agreed on £500...”*

Having considered the evidence before it, and on the balance of probabilities, the panel found allegation 3 proven.

#### **4. Your conduct at paragraphs 1 and/or 2 and/or 3 was sexually motivated and/or of a sexual nature.**

Mr Feeney partially admitted allegation 4, in that he admitted his conduct amounted to conduct of a sexual nature, but denied it was sexually motivated.

Mr Feeney’s representative stated, in his letter of 28 April 2023, that Mr Feeney did not actively pursue any inappropriate pictures or physical contact with Pupil A, nor did he seek or receive anything of a sexual nature from Pupil A. He further stated that Mr Feeney was [Redacted], which impaired his judgment. Finally, his representative referred to the conclusion reached by the police that there was not sufficient evidence to prove that there was an intention to commit a sexual offence.

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

The panel noted that in *Basson* it was stated that *“A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship”*. The panel further considered that in *Haris*, the High Court indicated that the criteria in *Basson* sets the bar too high. Foster J stated:

*“in the present case it is in my judgement clear beyond argument that the intimate touching of Patients A and B was sexual and that answering a question as to the motivation of the toucher, the only available answer, is yes, the motivation must have been sexual[...].”*

*“Of course, there are significant differences in the context and the analogy is not exact, but it does seem to me that pleading ‘sexual motivation’ is unhelpful. Similarly to look for ‘sexual gratification’ may be misleading or overcomplicating. It is irrelevant to the actions which the GMC would wish to proscribe whether or not the perpetrator was sexually ‘gratified’ at all – whether before, after or during the act in question. Gratification, as with ‘pursuit of a relationship’ are, pace the analysis of Mostyn J in Basson, not helpful in my judgement in promoting the public interests at stake here. These criteria set the bar too high and I respectfully disagree that they represent the law”.*

*“Had the touching been pleaded as being ‘sexual’ and had the Tribunal asked themselves whether in all the circumstances, which includes the absence of accident[...] absence of consent [...] and any other clinical or other proper justification [...] then it seems to me impossible they would have reached any conclusion other than that the touching was sexual”.*

In light of the decision in *Haris*, the panel was not persuaded by the explanation Mr Feeney provided, and it noted that a different standard of proof applied to these proceedings as compared with criminal proceedings.

The panel was of the view that Mr Feeney’s conduct at allegation 1 was both sexually motivated and of a sexual nature.

The messages Mr Feeney had sent Pupil A as outlined at allegation 1 were clearly sexual in nature. Mr Feeney asked Pupil A if she would consider having a fling with him, if she would be up for cuddles and kisses with him and asked if she was still a virgin. Given the content of the messages, the panel considered it more likely than not that Mr Feeney had sent these messages for his own sexual gratification and/or to pursue a sexual relationship with Pupil A. The panel was of the view that there was no other credible reason for Mr Feeney’s conduct and it therefore concluded that his conduct as described at allegation 1 was of a sexual nature and sexually motivated.

In respect of allegation 2, the panel was of the view that Mr Feeney’s conduct was sexually motivated. The summary of the police interview indicates that Mr Feeney told the police:

*“... she asked if I wanted to be her sugar daddy and I must have agreed and she said she would send me naughty pictures for £20. And I don’t know I must have been possessed. She sent me bank details and I didn’t want to do that so arranged money to*

*be collected at a bus stop... I decided not to leave the £20 at the bus stop and when she approached the bus stop, I approached her and told her who I was..."*

The panel was not persuaded by Mr Feeney's representative's written submissions that he was not thinking clearly at the time of the police interview. In the panel's view, it was more likely than not that, when Mr Feeney agreed to meet Pupil A outside of School in February 2021, he did so in order to obtain "*naughty pictures*". The panel considered it more likely than not that Mr Feeney had wanted to obtain these pictures for his own sexual gratification. The panel was of the view that there was no other credible reason for Mr Feeney's conduct and it therefore concluded that his conduct as described at allegation 2 was sexually motivated.

The panel did not consider that Mr Feeney's conduct as outlined at allegation 3 was sexually motivated or of a sexual nature. Mr Feeney's conduct in giving Pupil A money on the second occasion where he gave her £500 did not have any sexual connotations and the panel found that his motivation in doing so was to bring an end to the matter rather than being in pursuit of sexual gratification or a sexual relationship.

The panel found allegation 4 proven in respect of Mr Feeney's conduct as found proven at allegations 1 and 2. The panel did not find allegation 4 proven in respect of Mr Feeney's conduct at allegation 3.

#### **5. Your conduct at paragraph 3 was;**

##### **a) Dishonest;**

##### **b) Lacking integrity**

The panel firstly considered whether Mr Feeney had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel considered that Mr Feeney had failed to act within the higher standards expected of a teacher in respect of his conduct as found proven at allegation 3.

It was clearly inappropriate and contrary to the standards expected of the profession for Mr Feeney to give Pupil A a large sum of money in exchange for her agreeing not to report the inappropriate and sexually motivated messages he had sent her.

The panel then considered whether Mr Feeney had acted dishonestly in relation to the proven facts of allegation 3. 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 Mr Feeney's knowledge or belief as to the facts. Whilst the panel did not have the benefit of hearing oral evidence from Mr Feeney, it considered his mitigation statement and the wider evidence. The panel then

considered whether Mr Feeney had been dishonest according to the standards of ordinary decent people.

Whilst the panel found Mr Feeney's conduct at allegation 3 to be wholly inappropriate and misguided, it concluded that it did not amount to dishonesty. The panel acknowledged that Pupil A had threatened to inform the School of her conversation with Mr Feeney unless he paid her some money. It was therefore Pupil A who had suggested Mr Feeney pay her in exchange for her agreeing not to report him. Mr Feeney appeared to have admitted his misconduct at an early stage during the police interview and had repeated his admissions during these proceedings. There did not appear to be any attempt on Mr Feeney's behalf to seek to cover up his misconduct or to be untruthful about it once it had come to light.

There was no doubt in the panel's mind that it was unwise and inappropriate for Mr Feeney to give Pupil A money in the circumstances, and that this amounted to a lack of integrity. However, the panel did not consider that Mr Feeney's conduct in this regard was dishonest.

The panel found allegation 5(a) not proven.

The panel found allegation 5(b) proven.

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
  - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
  - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...

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

The panel was satisfied that Mr Feeney's conduct amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

The panel found that the offence of sexual communication with a child was relevant. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

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

The panel took into account the way the teaching profession is viewed by others and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

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

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

Having found the facts of allegations 1, 2, 3, 4, and 5(b) proved, the panel further found that Mr Feeney's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so.



The panel was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have 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 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's findings against Mr Feeney involved: sending messages to a pupil that were inappropriate and of a sexual nature; giving a pupil money; conduct that was sexually motivated and of a sexual nature; and conduct that lacked integrity. In light of those findings, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Feeney. 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 Mr Feeney. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);

- any 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;
- ...a lack of integrity...

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

The panel concluded that Mr Feeney's actions were deliberate.

Whilst the panel took account of Mr Feeney's [Redacted] at the time the misconduct took place, it did not consider that he was acting under extreme duress.

Similarly, the panel considered the evidence submitted in respect of Mr Feeney's teaching. However, there was no compelling evidence that Mr Feeney demonstrated exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector.

Mr Feeney also only engaged to a limited extent with the professional conduct panel hearing. However, the panel considered the mitigation statement Mr Feeney submitted dated 30 November 2023 within which he apologised for his conduct and expressed regret and remorse.

Within the mitigation statement, Mr Feeney stated that, at the time of his misconduct he had been dealing with significant challenges posed by the Covid-19 lockdown. At the time, he wrote to the School to plead for changes to the time spent online as it was affecting his [Redacted].

Mr Feeney explained that he was suffering from Covid-19 which persisted as long Covid-19 with symptoms continuing for at least 6 months. He stated that [Redacted].

[Redacted]. He submitted that he would not have engaged in such inappropriate behaviour under normal circumstances.

Mr Feeney explained that, following the incident, [Redacted]. He stated that he continued [Redacted] to address his [Redacted].

The panel noted letters from Mr Feeney's [Reacted].

The panel also noted character evidence submitted on behalf of Mr Feeney. In particular the panel noted the following comments:

- Individual C [Redacted]:

*“He has always been a dedicated and hardworking individual who is very approachable... I did notice a change in Enda’s behaviour after Christmas in January 2021. He seemed more stressed than usual... I never had any concerns regarding Enda Feeney, his behaviour, practice as a classroom practitioner, teacher, member of staff, or socially... Until this incident, I have never been made aware of any safeguarding issues or concerns regarding Enda Feeney.”*

- Individual D [Redacted]:

*“Having worked closely and been on many trips, I am fully confident that he is absolutely no risk to students I am fully aware of the allegations made against Enda. I would contend that these are completely out of character. In the considerable time that I have known him I am not aware of any previous allegation... I am fully of the view that the recent allegations are completely out of character with the individual I have known and worked so closely with for such a considerable period of time”*

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 Feeney 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 Feeney. The serious nature of the misconduct and the fact that it involved sexually motivated conduct in respect of a pupil was a significant factor in forming that opinion. 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 2 years.

The panel noted the list of behaviours at paragraph 50 of the Advice and found that “*any sexual misconduct involving a child*” was relevant. The Advice indicates that, where a case involves any such behaviours, it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period.

The panel was in no doubt that Mr Feeney’s misconduct was serious in nature. However, it took account of the mitigation he provided, the difficult [Redacted] he was experiencing at the time the misconduct took place and the fact that the misconduct took place over a short period of time. It also took account of his character references, which indicated that his conduct was out of character. Finally, it acknowledged the admissions Mr Feeney made in respect of his misconduct and the insight and remorse he demonstrated in his mitigation statement.

Taking all of this into account, 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 five year review period.

## **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 5 (a). I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Feeney should be the subject of a prohibition order, with a 5 year review period.

In particular, the panel has found that Mr Feeney Enda is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
  - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position

- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
  - showing tolerance of and respect for the rights of others
  - ensuring that personal beliefs are not expressed in ways which exploit pupils' vulnerability or might lead them to break the law.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
  - Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include sending inappropriate messages to a pupil, giving a pupil money, conduct found to be sexually motivated and conduct that lacked integrity

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

In this case, I have considered the extent to which a prohibition order would protect children and/or safeguard pupils. The panel has observed, "The panel's findings against Mr Feeney involved: sending messages to a pupil that were inappropriate and of a sexual nature; giving a pupil money; conduct that was sexually motivated and of a sexual nature; and conduct that lacked integrity. In light of those findings, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "Mr Feeney also only engaged to a limited extent with the professional conduct panel hearing. However, the panel considered the mitigation statement Mr Feeney submitted dated 30 November 2023 within which he apologised for

his conduct and expressed regret and remorse.” I have given this element some weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Feeney was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of sexual motivated conduct with a pupil in this case 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 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 Mr Feeney himself and the panel comment “the panel considered the evidence submitted in respect of Mr Feeney’s teaching. However, there was no compelling evidence that Mr Feeney demonstrated exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector.”

A prohibition order would prevent Mr Feeney 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 following “The panel was not persuaded by Mr Feeney’s representative’s written submissions that he was not thinking clearly at the time of the police interview. In the panel’s view, it was more likely than not that, when Mr Feeney agreed to meet Pupil A outside of School in February 2021, he did so in order to obtain “*naughty pictures*”. The panel considered it more likely than not that Mr Feeney had wanted to obtain these pictures for his own sexual gratification. The panel was of the view that there was no other credible reason for Mr Feeney’s conduct and it therefore concluded that his conduct as described at allegation 2 was sexually motivated.”

I have also placed considerable weight on the finding of the panel that, “The panel concluded that Mr Feeney’s actions were deliberate.”

“Whilst the panel took account of Mr Feeney’s [Redacted] at the time the misconduct took place, it did not consider that he was acting under extreme duress.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Feeney 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, 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 5 year review period should be imposed.

I have considered the panel’s comment “The panel was in no doubt that Mr Feeney’s misconduct was serious in nature. However, it took account of the mitigation he provided, the difficult [Redacted] he was experiencing at the time the misconduct took place and the fact that the misconduct took place over a short period of time. It also took account of his character references, which indicated that his conduct was out of character. Finally, it acknowledged the admissions Mr Feeney made in respect of his misconduct and the insight and remorse he demonstrated in his mitigation statement.”

I have carefully considered the overall facts of this case and the panel’s comments on mitigation. Whilst the panel has taken into account the difficult [Redacted], the period of time the misconduct took place and positive character references, the conduct found proven was particularly serious and repetition of such behaviour could risk the future wellbeing and safety of pupils.

The published Advice is clear when considering review periods and I have considered the following “The panel noted the list of behaviours at paragraph 50 of the Advice and found that “*any sexual misconduct involving a child*” was relevant. The Advice indicates that, where a case involves any such behaviours, it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period.” This case involved sexual misconduct with a child. I therefore disagree with the panel on their recommendation for a review period. In my opinion they have given greater weight to the mitigating circumstances, than can be justified by the seriousness of the findings. There remains a strong public interest consideration in the safeguarding and wellbeing of pupils.

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings involving sexual motivated conduct with a pupil.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

**This means that Mr Enda Feeney is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Enda Feeney shall not be entitled to apply for restoration of his eligibility to teach.

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

Mr Enda Feeney 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 'S Buxcey', with a horizontal line underneath.

**Decision maker: Sarah Buxcey**

**Date: 22 December 2023**

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