



Teaching
Regulation
Agency

Mr Martin Swarfield: Professional conduct panel meeting outcome

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

January 2024

Contents

Introduction	3
Allegations	4
Preliminary applications	8
Summary of evidence	9
Documents	9
Statement of agreed facts	9
Decision and reasons	9
Findings of fact	11
Panel's recommendation to the Secretary of State	27
Decision and reasons on behalf of the Secretary of State	30

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

Teacher:	Mr Martin Swarfield
Teacher ref number:	59093
Teacher date of birth:	9 November 1977
TRA reference:	17527
Date of determination:	4 January 2024
Former employer:	Wells Cathedral School, Somerset

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 4 to 5 January 2024 by way of a virtual meeting, to consider the case of Mr Martin Swarfield.

The panel members were Ms Mona Sood (lay panellist – in the chair), Mrs Anne Davis (teacher panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Mrs Samantha Cass of Birketts LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Swarfield that the allegations be considered without a hearing. Mr Swarfield provided a signed statement of agreed facts and admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Shaun Moran of Capsticks LLP, Mr Swarfield or any representative for Mr Swarfield.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegations set out in the notice of meeting dated 22 December 2023.

It was alleged that Mr Swarfield was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst a teacher at Wells Cathedral School ('the School'), he:

1. Whilst on a School trip to Nepal between 19 October 2016 and 5 November 2016, he;
 - a) On around 22 to 23 October entered Pupil A's bedroom and:
 - i. Said: let me give you a little hug or words to that effect;
 - ii. Hugged Pupil A.
 - b) On around 1 November 2016 he separated Pupil A from her peers when he caused or allowed Pupil A to have a bedroom to herself.
 - c) On around 1 November 2016 he;
 - i. Drank alcohol with pupils including Pupil A;
 - ii. Took a cigarette from Pupil A and smoked it;
 - iii. Entered and/or stood at the entrance to Pupil A's bedroom;
 - iv. Told Pupil A you looked really hot in the club or words to that effect;
 - v. Told Pupil A that he had chosen her [REDACTED] gift of a necklace and bracelet and/or bought it for her or words to that effect.
 - d) On around 2 November 2016 he;
 - i. Invited Pupil A to meet him in the hotel bar;
 - ii. Drank alcohol with Pupil A;
 - iii. Told Pupil A about a fun night he had spent with a woman from Nepal or words to that effect.
 - e) On around 3 November 2016 he;
 - i. Hugged Pupil A;
 - ii. Kissed Pupil A;

- iii. Entered and/or stood at the entrance to Pupil A's bedroom
- f) On around 4 November 2016 he;
- i. Met Pupil A at a hotel balcony bar;
 - ii. Said: I was watching you at dinner last night or words to that effect;
 - iii. Said: you are gorgeous and you don't even know it or words to that effect;
 - iv. Gave Pupil A a gift.
- g) On around 5 November 2016 he;
- i. Kissed and/or attempted to kiss Pupil A;
 - ii. Followed and/or entered the toilet with Pupil A;
 - iii. Pushed and/or manoeuvred Pupil A inside a cubicle;
 - iv. Said: come on there is no-one here or words to that effect;
 - v. Pinned and/or manoeuvred Pupil A against the cubicle door;
 - vi. Kissed Pupil A In the cubicle.
- h) On around 6 November 2016 he;
- i. Pulled Pupil A towards him;
 - ii. Kissed Pupil A's neck;
 - iii. Unbuttoned Pupil A's top;
 - iv. Touched and/or groped Pupil A's breasts;
 - v. Said: I wish I could be naked in your bed with you right now or words to that effect;
 - vi. Kissed Pupil A including with his tongue;
 - vii. Told Pupil C and/or Pupil E that Pupil A had not been very well, when they attempted to intervene.
- i) On around 6 November 2016 while travelling home from the school trip he;
- i. Told Pupil A this can't happen again or words to that effect; and

ii. Said that his job and family would be in jeopardy if it ever came out, or words to that effect.

j) In around the week commencing 7 November 2016 you;

i. Told Pupil D that he regretted what had happened on the trip and would vehemently deny that anything happened in relation to Pupil A or words to that effect;

ii. Told Pupil D he would expect him to do the same or words to that effect.

2. Between 6 November 2016 and 30 June 2017 he;

(a) Met with Pupil A and;

i. Offered to pay for Pupil A to do yoga lessons;

ii. Suggested arranging private [REDACTED] sessions;

iii. Made inappropriate comments to Pupil A including that she was beautiful and sexy or words to that effect;

iv. Told Pupil A she was really special to him or words to that effect;

v. Told Pupil A that he wanted to have sex with her or words to that effect;

vi. Exchanged inappropriate text messages including saying I miss you;

vii. Exchanged emails that were inappropriate in that they offered pastoral care and/or guidance in the context of his sexual relationship and/or interest in Pupil A;

viii. Discussed a relationship with Pupil A was in including indicating that he was upset by it;

ix. In the context of his contact with Pupil A told her he was terrified of losing his job or words to that effect;

x. In the context of his contact with Pupil A told her that if anything got out his whole life would be jeopardised or words to that effect.

(b) On 14 November 2016 he;

i. Picked Pupil A up from a [REDACTED] session which took place off school premises;

ii. Told Pupil A I think you need a hug or words to that effect;

- iii. Wrapped his arm around Pupil A;
- iv. Pulled Pupil A towards him in a hug;
- v. Pulled Pupil A back towards him after she had moved away;
- vi. Said you look so sexy in those tiny shorts or words to that effect;
- vii. Kissed Pupil A on one or more occasions;
- viii. Caused and/or allowed Pupil A to manually stimulate his penis;
- ix. Ejaculated onto Pupil A's hand;
- x. Told Pupil A you made me come quite quickly there or words to that effect.

(c) On 28 November 2016 he;

- i. Picked up Pupil A from a [REDACTED] session which took place off school premises;
- ii. Took Pupil A to an empty house;
- iii. Kissed Pupil A on one or more occasions;
- iv. Told Pupil A he liked her boobs or words to that effect;
- v. Had sex with Pupil A;
- vi. Told Pupil A that her vagina was like his new toy or words to that effect;
- vii. Told Pupil A he wished they could go away together and do it more or words to that effect.

3. His conduct set out in the following paragraphs was sexually motivated;

(a) Paragraph 1;

(b) Paragraph 2.

4. On 26 February 2020 he sent Pupil A a text message with the text set out in Schedule A.

5. Towards the end of February 2020 he commented on an [REDACTED] Pupil A had [REDACTED] as set out in Schedule B.

6. On 27 March 2020 he accepted a conditional caution admitted that he had acted contrary to section 2(1) and (2) of the Protection from Harassment Act 1997 in respect of his actions as set out at (4) and (5) above.

7. His conduct as set out in any of allegations (1) to (5) above lacked integrity.

Schedule A:

“The stuff with m could go live in press. Suggest you contact [REDACTED] and tell him all lies and a set up. You’ve moved on, don’t let this be gossip!”

Schedule B:

15 February 2020 – message from [REDACTED] “Perhaps the [REDACTED] should consider telling the truth and not destroy lives and families”

16 February 2020 – message from “[REDACTED]” “Interesting [REDACTED]. But [REDACTED] needs to be held accountable for lies and false allegations that destroy reputations and families. Do not trust [Pupil A]!”

28 February 2020 – message from “[REDACTED]” “Wow – amazing [REDACTED]! So impressed by your ability to not eat meat! Ffs you’ve destroyed a family, accused two people of raping you, and blog about food. This woman is bonkers! Fuck you [Pupil A]!”

29 February 2020 – Message from “[REDACTED]” “Family wrecker! Absolute psycho with mental issues. Raped twice by different men – nonsense...just attention seeking. Absolute poison this woman suffering from daddy issues! Avoid at all costs – she’ll destroy the life of anyone who cares about her!”

Mr Swarfield admitted allegations 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 1(h), 1(i), 1(j), 2(a), 2(b), 2(c), 3, 4, 5, 6 and 7, as set out in the statement of agreed facts, signed by Mr Swarfield on 4 September 2023. Mr Swarfield further admitted that his behaviour amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute.

Preliminary applications

There were no preliminary applications.

The panel noted that since the date of the referral to the TRA in this case, new ‘Teacher misconduct: Disciplinary procedures for the teaching profession’ were published in May 2020 (the “May 2020 Procedures”). The panel understands that the earlier provisions contained within the ‘Teacher misconduct: disciplinary procedures for the teaching profession’ updated in April 2018 (the “April 2018 Procedures”) apply to this case, given that those provisions applied when the referral was made. Although the panel has the

power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

Summary of evidence

Documents

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

- Section 1: Chronology, anonymised pupil list and list of key people – pages 8 to 11
- Section 2: Notice of referral, response and notice of meeting – pages 12 to 40
- Section 3: Statement of agreed facts and presenting officer representations – pages 41 to 58
- Section 4: TRA documents – pages 59 to 427
- Section 5: Teacher documents – pages 428 to 464
- Section 6: Other media (three video recordings and one audio recording)

The panel members confirmed that they had read all of the documents and during the course of the meeting, the panel also watched and listened to the video and audio recordings relevant to the case.

Statement of agreed facts

The panel considered a statement of agreed facts which was signed by Mr Swarfield on 4 September 2023, and subsequently signed by the presenting officer on 6 September 2023.

Decision and reasons

The panel carefully considered the case and reached the following decision and reasons:

In advance of the meeting, the TRA agreed to a request from Mr Swarfield for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

In September 2000 Mr Swarfield commenced employment at [REDACTED] as a newly qualified teacher.

In September 2005, Mr Swarfield commenced employment at Wells Cathedral School ('the School').

Between October to November 2016, the School's expedition to Nepal took place, and was led by Mr Swarfield. During the last part of the trip, [REDACTED], Mr Swarfield allegedly followed Pupil A into the female toilets. Mr Swarfield allegedly entered the bedroom of Pupil A later on in the evening, back at the hotel.

On 15 to 23 May 2017 a safeguarding investigation was carried out by the School, interviews with students and a staff member took place.

In June 2017 Pupil A made a complaint to the police regarding the actions of Mr Swarfield during the School expedition.

On 30 June 2017, Mr Swarfield was arrested by police at the School. He was suspended from the School.

On 14 December 2017, two pupils were re-interviewed by the School.

On 29 January 2018 the School held a disciplinary investigation meeting. Mr Swarfield did not attend.

On 5 February 2018, the School held a disciplinary investigation meeting, which was attended by Mr Swarfield.

On 23 February 2018, Mr Swarfield resigned from the School.

On 15 March 2018, the School disciplinary meeting took place.

On 25 June 2018, the School disciplinary hearing reconvened, and was attended by Mr Swarfield.

On 19 September 2018 a referral to the TRA was made.

On 22 September 2019, a notice of referral was sent to Mr Swarfield.

On 10 August 2022 the matter was referred back for amendments to the allegations.

On 11 July 2023 a referral back decision was made, and Mr Swarfield was sent a new notice of hearing.

On 27 November 2023 a professional conduct panel meeting was held within which a panel considered that Mr Swarfield's admissions of fact were not satisfactory following

which the matter was referred back to the TRA and eventually relisted for a further professional conduct panel meeting.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

The panel noted that Mr Swarfield admitted allegations 1 to 7 in their entirety, as set out in the statement of agreed facts signed by Mr Swarfield on 4 September 2023. Further, Mr Swarfield admitted that those admitted facts amounted to unacceptable conduct and/or conduct that may bring the profession into disrepute.

Notwithstanding this, the panel made a determination based on the facts available to it.

1. Whilst on a School trip to Nepal between 19 October 2016 and 5 November 2016, you;

a) On around 22 to 23 October entered Pupil A's bedroom and:

- i. Said: let me give you a little hug or words to that effect;**
- ii. Hugged Pupil A.**

b) On around 1 November 2016 you separated Pupil A from her peers when you caused or allowed Pupil A to have a bedroom to herself

Mr Swarfield admitted that he entered Pupil A's bedroom on around 22 to 23 November and stated "*let me give you a little hug*" or words to that effect, and hugged Pupil A. He also confirmed that Pupil A gave an accurate account of these matters in her witness statement, in paragraphs 15 and 16.

The panel considered the witness statement of Pupil A, who stated that there was an uneven number of girls on the trip and so she and other female pupils took turns sleeping on their own. Pupil A stated that when they got back to Kathmandu after a trek, it had just been [REDACTED] so she asked Mr Swarfield if she could be in a room on her own, to which he agreed.

Pupil A stated that on around the [REDACTED], she went back to her room and Mr Swarfield knocked on her door. She stated that he was there for what felt a long time just talking, and then asked to give her a hug. Pupil A submitted that Mr Swarfield leaned in for a hug and that they hugged and it lingered a little.

The panel considered Pupil B's statement which stated that *"every night one of us had a room by herself"*. Pupil A had a room to herself on the trip even when it was *"not her turn"* and that Mr Swarfield had *"allocated the rooms"*. Pupil B also stated that Pupil A had told them that Mr Swarfield had gone to her room.

The panel considered Pupil D's witness statement which corroborated that *"on some nights there would be one girl in the room by herself"*.

The panel found allegations 1(a) and 1(b) proven.

c) On around 1 November 2016 you;

- i. Drank alcohol with pupils including Pupil A;**
- ii. Took a cigarette from Pupil A and smoked it;**
- iii. Entered and/or stood at the entrance to Pupil A's bedroom;**
- iv. Told Pupil A you looked really hot in the club or words to that effect;**
- v. Told Pupil A that he had chosen her [REDACTED] gift of a necklace and bracelet and/or bought it for her or words to that effect.**

Mr Swarfield admitted that on or around 1 November 2016 he drank alcohol with pupils, including Pupil A, took a cigarette from Pupil A and smoked it, entered and/or stood at the entrance to Pupil A's bedroom, told Pupil A *"you looked hot in the club"* or words to that effect and told Pupil A he had chosen her [REDACTED] gift of a necklace and bracelet and/or bought it for her (or words to that effect). Mr Swarfield confirmed the accuracy of Pupil A's account of these matters at paragraph 18 and 19 of her witness statement.

The panel considered the witness statement of Pupil A, where she stated that everyone went out to a club after dinner and that they were all drinking alcohol. She explained that she went outside for a cigarette and Mr Swarfield took it off her and smoked it.

The panel considered Pupil B's witness statement which stated that *"we were all drinking and the four teachers were with us"*.

The panel also considered Pupil D's witness statement which indicated that *"most students drank alcohol (all were allowed to do so by the staff)"* and that *"Mr Swarfield bought us a round of drinks"*. Pupil D also stated that *"the staff were also drinking and at one point I gave Mr Swarfield a cigarette"*.

Pupil A submitted that she was sleeping on her own that night and Mr Swarfield knocked on her door and leant against the door frame. She stated that he said “*you looked really hot in the club*” and told her he had bought her a necklace and bracelet.

The panel found allegation 1(c) proven.

d) On around 2 November 2016 you;

- i. Invited Pupil A to meet you in the hotel bar;**
- ii. Drank alcohol with Pupil A;**
- iii. Told Pupil A about a fun night you had spent with a woman from Nepal or words to that effect.**

Mr Swarfield admitted that on or around the 2 November 2016 he invited Pupil A to meet him at the hotel bar, drank alcohol with Pupil A and told Pupil A about “*a fun night*” that he had spent with a “*woman from Nepal*” (or words to that effect). Mr Swarfield confirmed the accuracy of Pupil A’s account of these matters at paragraph 21 of her witness statement.

The panel considered the witness statement of Pupil A, where she explained Mr Swarfield invited her to the hotel bar for drinks. She stated that she went to the bar to meet Mr Swarfield with Pupil D. The panel noted that this was corroborated in Pupil D’s witness statement.

Pupil A explained that Mr Swarfield had already had a bottle of wine when they got to the bar, and that she and Pupil D had a beer. She submitted that Mr Swarfield told them about a “*fun night*” he had with a woman on the last trip to Nepal.

The panel found allegation 1(d) proven.

e) On around 3 November 2016 you;

- i. Hugged Pupil A;**
- ii. Kissed Pupil A;**
- iii. Entered and/or stood at the entrance to Pupil A’s bedroom.**

Mr Swarfield admitted that on or around 3 November he hugged and kissed Pupil A and that he entered and/or stood at the entrance to Pupil A’s bedroom. Mr Swarfield confirmed Pupil A’s account of this matter at paragraph 22 of her witness statement to be accurate.

The panel considered Pupil A’s witness statement, where she explained that on the 3 November 2016 the group had been out to dinner and returned to the hotel to go to bed.

She stated that Mr Swarfield went upstairs with her and hugged and kissed her goodnight.

Pupil A explained that she went into her room and closed the door, and a while later Mr Swarfield knocked on the door and asked her if she was okay. She stated that she went into Pupil D's room to tell her what had happened, as she thought the exchange was a bit creepy.

The panel found allegation 1(e) proven.

f) On around 4 November 2016 you;

- i. Met Pupil A at a hotel balcony bar;**
- ii. Said: I was watching you at dinner last night or words to that effect;**
- iii. Said: you are gorgeous and you don't even know it or words to that effect;**
- iv. Gave Pupil A a gift.**

Mr Swarfield admitted that on or around the 4 November 2016 he met Pupil A at a hotel balcony bar and stated "*I was watching you at dinner last night*" (or words to that effect) stated "*you are gorgeous and you don't even know it*" and gave Pupil A a gift. Mr Swarfield confirmed the accuracy of Pupil A's account on these matters at paragraph 23 of her witness statement.

The panel considered the witness statement of Pupil A, who stated that Mr Swarfield had asked to meet her at a hotel balcony bar, which she did. Pupil A explained that Mr Swarfield said to her "*I was watching you at dinner last night; you're the most gorgeous girl at the table and you don't even know it*", or words to that effect. She stated that during the same conversation, Mr Swarfield gave her a book. The panel considered Pupil D's witness statement which stated that Pupil D had seen from the corridor outside their room that "*Mr Swarfield took Pupil A aside to the restaurant bar balcony and they sat and talked out there*".

The panel considered the witness statement of Pupil D, who stated that on the last day of the trip various people exchanged gifts, and Mr Swarfield gave Pupil A a gift. The panel noted that, in Pupil D's witness statement, Pupil D had recalled Mr Swarfield "*giving Pupil A a gift, I am unsure what the gift was, it may have been a book like he had given to me*".

The panel found allegation 1(f) proven.

g) On around 5 November 2016 you;

- i. Kissed and/or attempted to kiss Pupil A;**
- ii. Followed and/or entered the toilet with Pupil A;**
- iii. Pushed and/or manoeuvred Pupil A inside a cubicle;**
- iv. Said: come on there is no-one here or words to that effect;**
- v. Pinned and/or manoeuvred Pupil A against the cubicle door;**
- vi. Kissed Pupil A In the cubicle.**

Mr Swarfield admitted that on or around the 5 November 2016, he kissed and/or attempted to kiss Pupil A, followed and/or entered the toilet with Pupil A, pushed and/or manoeuvred Pupil A inside a cubicle, tried to kiss Pupil A inside the cubicle, stated to Pupil A “...*come on there is no-one here*” (or words to that effect), pinned and/or manoeuvred Pupil A against the cubicle door by her waist and that he kissed Pupil A in the cubicle. Mr Swarfield confirmed that Pupil A’s account of these matters in her witness statement at paragraph 25 is accurate.

Pupil A’s statement confirmed this and stated that Mr Swarfield kissed her on the mouth and that it was a prolonged kiss lasting 5 seconds or so, forcefully putting his tongue down her throat.

The panel considered the witness statement of Pupil B who explained that another pupil had approached her and told her that Mr Swarfield had followed Pupil A into the bathroom. She stated that she ran to the bathroom, couldn’t see Pupil A so jumped up at the cubicle and saw Pupil A up against the wall of the cubicle and Mr Swarfield was facing her and pressed up against her. She submitted that she saw them kissing on the mouth, so she banged on the door and asked them to get out.

The panel also considered Pupil D’s witness statement within which he stated that Pupil B had said that they had seen Pupil A and Mr Swarfield go into a toilet cubicle at the club and start kissing.

The panel found allegation 1(g) proven.

h) On around 6 November 2016 you;

- i. Pulled Pupil A towards you;**
- ii. Kissed Pupil A’s neck;**
- iii. Unbuttoned Pupil A’s top;**
- iv. Touched and/or groped Pupil A’s breasts;**

- v. **Said: I wish I could be naked in your bed with you right now or words to that effect;**
- vi. **Kissed Pupil A including with your tongue;**
- vii. **Told Pupil C and/or Pupil E that Pupil A had not been very well, when they attempted to intervene.**

Mr Swarfield admitted that on or around the 6 November 2016 he pulled Pupil A towards himself, kissed Pupil A's neck, unbuttoned Pupil A's top, touched and/or groped Pupil A's breasts, stated to Pupil A *"I wish I could be naked in your bed with you right now"* (or words to that effect) and kissed Pupil A including with his tongue. Mr Swarfield confirmed that Pupil A's account of these matters at paragraph 26 and 27 of her witness statement to be accurate.

The panel considered the witness statement of Pupil A.

Pupil A stated that they got back to the hotel at around 2 to 3am on the morning of the 6 November 2016, and that she heard a knock at her door. She stated that it was Mr Swarfield and he asked if he could come in, to which she said yes.

Pupil A stated that Mr Swarfield approached her and pulled her towards him by her waist and started kissing her neck. Pupil A submitted that she said *"this isn't a good idea, you're really drunk, we shouldn't do this"* or words to that effect, but she did not push him off.

Pupil A explained that Mr Swarfield unbuttoned her top to her belly button and started to grope her breasts. She stated that this was over her bra as far as she can remember. Pupil A submitted that Mr Swarfield then said *"I wish I could be naked in your bed with you right now"*, so she stood back from him and questioned what was going on. Pupil A stated that Mr Swarfield said something like *"we have now, tomorrow I have to go back home and be a [REDACTED]"*. Pupil A stated that she could not remember much about the kiss, other than that Mr Swarfield had forced his tongue into her mouth again.

Pupil A explained that whilst Mr Swarfield was kissing her, someone started banging on the door angrily and a boy shouted *"I know you're in there, get out you creep"* (or words to that effect). She stated that Mr Swarfield opened the door and she could see her friends Pupil C and Pupil E. Pupil A stated that her top was still undone and she saw Pupil C notice this. She stated that Pupil C came into her room and shouted at Mr Swarfield *"what the fuck are you doing"* to which Mr Swarfield replied *"we're just having a chat, [Pupil A] hasn't been well, that's all it is"*.

The panel found allegation 1(h) proven.

i) On around 6 November 2016 while travelling home from the school trip you;

- i. Told Pupil A this can't happen again or words to that effect;**
- ii. Said that your job and family would be in jeopardy if it ever came out, or words to that effect.**

Mr Swarfield admitted that on or around 6 November 2016, whilst travelling home to the UK, he stated to Pupil A that "*this can't happen again*" and that his "*job and family would be in jeopardy if it ever came out*" (or words to that effect). Mr Swarfield confirmed the accuracy of Pupil A's account of these matters at paragraph 28 of her witness statement.

Pupil A stated that whilst they were in the airport waiting for their flight home, Mr Swarfield came over to her and asked to have a chat. She stated that Mr Swarfield told her that he cared about her, and said "*last night was what it was, I've got to go back home now and be a [REDACTED] this obviously can't happen again*" (or words to that effect).

Pupil A stated that she said that was fine, to which Mr Swarfield then said that his job and family would be in jeopardy "*if it ever came out*".

The panel found allegation 1(i) proven.

j) In around the week commencing 7 November 2016 you;

- i. Told Pupil D that you regretted what had happened on the trip and would vehemently deny that anything happened in relation to Pupil A or words to that effect;**
- ii. Told Pupil D you would expect him to do the same or words to that effect.**

Mr Swarfield admitted that on or around the week commencing the 7 November 2016 he stated to Pupil D that he "*regretted what had happened on the trip*" and that he would "*vehemently deny that anything happened in relation to Pupil A*" (or words to that effect). Mr Swarfield also admitted that he informed Pupil D that he "*would expect him to do the same*" (or words to that effect) referring Pupil D maintaining the confidentiality of the relationship between the teacher and Pupil A. Mr Swarfield confirmed the accuracy of Pupil D's account of these matters at paragraph 31 of their witness statement.

The panel considered the witness statement of Pupil D, who stated that the week after they had arrived back in the UK, Mr Swarfield invited him into his office and told him that he regretted what happened on the trip and would "*vehemently deny*" that anything happened if he was asked. He stated that Mr Swarfield also said he would expect him to do the same if he was asked.

The panel found allegation 1(j) proven.

2. Between 6 November 2016 and 30 June 2017 you;

a) Met with Pupil A and;

- i. Offered to pay for Pupil A to do yoga lessons;**
- ii. Suggested arranging private [REDACTED] sessions;**
- iii. Made inappropriate comments to Pupil A including that she was beautiful and sexy or words to that effect;**
- iv. Told Pupil A she was really special to you or words to that effect;**
- v. Told Pupil A that you wanted to have sex with her or words to that effect;**

Mr Swarfield admitted that between 6 November 2016 and 30 June 2017; he offered to pay for Pupil A to do yoga lessons, he suggested arranging private [REDACTED] sessions for Pupil A, he made inappropriate comments to Pupil A including that she was “*beautiful and sexy*” (or words to that effect), he told Pupil A she was “*really special*” to him (or words to that effect) and that he told Pupil A that he “*wanted to have sex with her*” (or words to that effect).

Mr Swarfield confirmed the accuracy of Pupil A’s account of these matters at paragraph 31, 32, 33 and 34 of her witness statement.

The panel considered the witness statement of Pupil A. Pupil A stated that she met Mr Swarfield on a regular basis to discuss her health and well-being, and that she depended on him for a lot of [REDACTED]. She stated that he offered to pay for her to do yoga lessons, and on the 10 November when they met he suggested arranging private [REDACTED] sessions.

Pupil A explained that during their meetings, Mr Swarfield often said affectionate things to her, such as calling her beautiful and sexy. She submitted that Mr Swarfield said to her that she was really special to him, and that he wanted to have sex with her.

The panel found allegations 2(a)(i) to (v) proven.

- vi. Exchanged inappropriate text messages including saying I miss you;**
- vii. Exchanged emails that were inappropriate in that they offered pastoral care and/or guidance in the context of your sexual relationship and/or interest in Pupil A;**

Mr Swarfield admitted that he exchanged emails with Pupil A that were inappropriate in that they offered pastoral care and/or guidance in the context of his sexual relationship and/or interest in Pupil A. Mr Swarfield confirmed the accuracy of Pupil A's account of these matters at paragraph 35 of her witness statement.

The panel considered the emails which were provided as part of the bundle, showing the emails exchanged between Mr Swarfield and Pupil A.

The panel considered the witness statement of Pupil A, who stated that Mr Swarfield started sending her messages such as "*I miss you*" or that he had been thinking about her all day.

The panel concluded that the emails and text messages were inappropriate.

The panel found allegations 2(a)(vi) and (vii) proven.

viii. Discussed a relationship with Pupil A was in including indicating that you were upset by it;

Mr Swarfield admitted that he discussed Pupil A's relationship with someone else and that he reacted by indicating to Pupil A that he was upset she had commenced this relationship. Mr Swarfield confirmed the accuracy of Pupil A's account at paragraph 40 of her witness statement.

The panel considered the witness statement of Pupil A, who explained that she told Mr Swarfield that she had met someone, to which he told her "*it makes me quite upset [Pupil A] that you're out meeting other guys*".

Pupil A submitted that Mr Swarfield asked lots of questions such as how old he was, whether he was attractive and also said "*I bet he's more attractive than an old bugger like me*".

The panel found allegation 2(a)(viii) proven.

ix. In the context of your contact with Pupil A told her you were terrified of losing your job or words to that effect;

x. In the context of your contact with Pupil A told her that if anything got out your whole life would be jeopardised or words to that effect.

Mr Swarfield admitted that he informed Pupil A that he was terrified about losing his job because of his relationship with Pupil A and it could jeopardise his "*whole life*" "*...if anything got out*". Mr Swarfield confirmed that paragraph 50 of Pupil A's witness statement on these matters is accurate.

Pupil A stated that, on more than one occasion, Mr Swarfield told her he was terrified about losing his job and his wife, and that if anything got out his life would be jeopardised.

The panel found allegations 2(a)(ix) and (x) proven.

b) On 14 November 2016 you;

- i. Picked Pupil A up from a [REDACTED] which took place off school premises;**
- ii. Told Pupil A I think you need a hug or words to that effect;**
- iii. Wrapped your arm around Pupil A;**
- iv. Pulled Pupil A towards you in a hug;**
- v. Pulled Pupil A back towards you after she had moved away;**
- vi. Said you look so sexy in those tiny shorts or words to that effect;**
- vii. Kissed Pupil A on one or more occasions;**
- viii. Caused and/or allowed Pupil A to manually stimulate your penis;**
- ix. Ejaculated onto Pupil A's hand;**
- x. Told Pupil A you made me come quite quickly there or words to that effect.**

Mr Swarfield admitted that on 14 November 2016, having picked Pupil A up in his car from a [REDACTED] which had taken place off school premises, he drove to a secluded rural location where he parked up. He admitted that he then said to Pupil A *"I think you need a hug"* (or words to that effect), wrapped his arm around Pupil A and pulled her towards him in a hug. He further admitted that he pulled Pupil A back towards him after she had initially moved away and said to her *"you look so sexy in those tiny shorts"* (or words to that effect).

Mr Swarfield admitted that he kissed Pupil A on one or more occasions and that he proceeded to cause and/or allow Pupil A to manually stimulate his penis until he ejaculated onto Pupil A's hand. He admitted that shortly afterwards he said to Pupil A *"you made me come quite quickly there"* (or words to that effect).

Mr Swarfield confirmed the accuracy of Pupil A's account at paragraphs 37 and 38 of her witness statement. He also accepted the forensic evidence which was provided in the bundle, in so far as it verifies his sexual encounter took place with Pupil A as described.

The panel considered the Forensic Report in the bundle which confirmed that Mr Swarfield's [REDACTED].

The panel considered the witness statement of Pupil A who explained that Mr Swarfield picked her up from her first [REDACTED] and on the drive back took a wrong turn, and then drove into a nature reserve car park which was empty. Pupil A stated that she had asked if it was the right way and Mr Swarfield had replied "*I think so*", and as they drive into the car park Pupil A explained that she said "*what are you doing*", and Mr Swarfield said "*I think you need a hug*". She submitted that he parked the car and turned off the engine.

Pupil A stated that Mr Swarfield undid his seat belt and gave her a hug, and as she went to pull away he pulled her back towards him and kissed her on the lips. Pupil A stated that she pulled back and said "*I thought we weren't going to do that again*", to which Mr Swarfield replied "*yea, but you look so sexy in those tiny shorts*" (or words to that effect).

Pupil A stated that Mr Swarfield then kissed her again and during the kiss he grabbed her left hand with his right hand and pushed it down his tracksuit bottoms, under his underpants. She stated that Mr Swarfield physically held her hand on his penis and started rubbing his penis with her hand. Pupil A submitted that she was shocked and did not resist, but in her head was not doing it willingly. She stated that Mr Swarfield kept his hand there the whole time, but she started moving her hand up and down his penis herself once she understood what he was making her do.

Pupil A explained that Mr Swarfield ejaculated onto his stomach/t-shirt, his underpants and onto her hand. She stated that as they were driving away, Mr Swarfield has said "*you made me come quite quickly there*".

The panel found allegations 2(b)(i) to (x) proven.

c) On 28 November 2016 you;

- i. Picked up Pupil A from a [REDACTED] which took place off school premises;**
- ii. Took Pupil A to an empty house;**
- iii. Kissed Pupil A on one or more occasions;**
- iv. Told Pupil A you liked her boobs or words to that effect;**
- v. Had sex with Pupil A;**
- vi. Told Pupil A that her vagina was like your new toy or words to that effect;**

vii. Told Pupil A you wished you could go away together and do it more or words to that effect.

Mr Swarfield admitted that on 28 November 2016, having picked Pupil A up in his car from a [REDACTED] which took place off school premises, he drove Pupil A to an empty house [REDACTED] and kissed Pupil A on one or more occasions whilst there. He admitted that he stated to Pupil A that he *“liked her boobs”* (or words to that effect), and that he had sex with Pupil A. Mr Swarfield admitted that he stated to Pupil A that *“her vagina was like [his] new toy”* or words to that effect, and said to Pupil A that he wished they could go away and do it (referring to sex) more often (or words to that effect). Mr Swarfield confirmed that paragraphs 42 to 48 of Pupil A's witness statements referring to these matters are accurate.

The panel considered the witness statement of Pupil A, who explained that on 28 November 2016, Mr Swarfield picked her up from her [REDACTED] session and took a turning away from the School. She stated that she asked whether they were going back to the nature reserve, to which Mr Swarfield said *“no I'm doing something I shouldn't do”*. Pupil A submitted that she asked where they were going, and Mr Swarfield replied *“I've been thinking about this for a while. My family and I have a house in [REDACTED].”* Pupil A stated that he did not explicitly say, but it was implied he wanted to have sex at his [REDACTED].

Pupil A stated that she asked him if he was sure and where his wife thinks he is, to which he said something along the lines of *“it's all under control”*. Pupil A stated that she did not feel as though she had a choice.

Pupil A stated that Mr Swarfield never asked her if she was okay with what was happening, but she had resigned herself to what was going to happen so did not resist. She stated that Mr Swarfield stopped kissing her and took her to the guest room, where he undressed himself and told Pupil A he liked her boobs. Pupil A confirmed that they then had sex and was able to recall significant details.

Pupil A explained that on the drive back, Mr Swarfield put his hand on her upper right thigh and said *“your vagina is like my new toy”* or words to that effect.

The panel considered the witness statement of [REDACTED], Pupil A's [REDACTED]. [REDACTED] explained that Pupil A told her that she had had sex with Mr Swarfield.

The panel found allegations 2(c)(i) to (vii) proven.

3. Your conduct set out in the following paragraphs was sexually motivated;

- a) Paragraph 1;**
- b) Paragraph 2.**

Mr Swarfield admitted that his conduct as detailed above under particulars 1 and 2 was sexually motivated in that it was conducted in the pursuit of sexual gratification and/or in pursuit of a future sexual relationship.

The panel's attention was drawn to section 78 of the 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 considered whether the conduct was sexually motivated. It noted guidance from *Basson* 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 also considered the case of *Haris*, in which it was held that, "in the absence of a plausible innocent explanation for what he did, the facts spoke for themselves."

The panel also considered the case of *Beckwith v SRA [2020 EWHC 3231 (Admin)]* which concerned a "sexual encounter" between a partner in a law firm and an associate in his department. Whilst the panel recognised that there were limited similarities between the facts of both cases, the panel concluded that Mr Swarfield had demonstrated a lack of integrity in his actions especially taking into account Pupil A's vulnerabilities.

The panel considered that the acts of kissing Pupil A, having sex with her, telling her that her vagina is like his new toy were by their nature sexual and had clear sexual connotations. The panel considered that carrying out these actions, was on the balance of probabilities, in pursuit of sexual gratification. The panel was of the view that there was no other plausible reason for Mr Swarfield's conduct and therefore concluded that his conduct as described at paragraphs 1 and 2, was sexually motivated.

The panel found allegations 3(a) and 3(b) proven.

4. On 26 February 2020 you sent Pupil A a text message with the text set out in Schedule A.

Mr Swarfield admitted that on 26 February 2020 he sent a text message to Pupil A in the terms detailed in Schedule A. Mr Swarfield confirmed the accuracy of Pupil A's account at paragraph 70 of her witness statement.

The panel had sight of the text messages sent as part of the bundle.

The panel noted that a text message sent on 26 February 14:22 to Pupil A read "the stuff with [REDACTED] could go live in press. Suggest you contact [REDACTED] and tell him all lies and a set up. You've moved on, don't let this be gossip!"

The panel considered the witness statement of Pupil A, who stated that on 26 February 2020 she received a text message from a number that she did not recognise saying that

she should “go to [REDACTED]” [REDACTED] because the “*thing with [REDACTED] could go live in the press*” and that she should “*tell him it was all lies and move on with her life*”.

The panel found allegation 4 proven.

5. Towards the end of February 2020 you commented on an [REDACTED] Pupil A had written for a student newspaper as set out in Schedule B.

Mr Swarfield admitted that towards the end of February 2020 he posted online comments in response to an [REDACTED], which were set out in Schedule B of the allegations. Mr Swarfield confirmed that Pupil A’s account of this matter in her witness statement at paragraphs 71 and 72 was accurate.

The panel considered the screenshots of the comments made on the [REDACTED], which were provided in the bundle:

- Comment from [REDACTED] on 15 February 2020 “*perhaps the [REDACTED] should consider telling the truth and not destroy lives and families.*”
- Comment from [REDACTED] on 16 February 2020 “*interesting [REDACTED]. But [REDACTED] needs to be held accountable for lies and false allegations that destroy reputations and families. Do not trust [Pupil A]*”
- Comment from [REDACTED] on 28 February 2020 “*Wow – amazing [REDACTED] So impressed by your ability to not eat meat! Ffs. You’ve destroyed a family, accused two people of raping you, and blog about food. This woman is bonkers! Fuck you [Pupil A].*”
- Comment from [REDACTED] on 29 February 2020 “*Family wrecker! Absolute psycho with mental issues. Raped twice by different men – nonsense... just attention seeking. Absolute poison this woman suffering from daddy issues! Avoid at all costs – she’ll destroy the life of anyone who cares about her!*”

The panel found allegation 5 proven.

6. On 27 March 2020 you accepted a conditional caution admitted that you had acted contrary to section 2(1) and (2) of the Protection from Harassment Act 1997 in respect of your actions as set out at (4) and (5) above.

Mr Swarfield admitted to sending these messages to Pupil A during an interview under caution and he subsequently accepted a police caution by which he admitted the underlying facts and the criminal offending.

The panel had sight of the conditional caution.

The panel found allegation 6 proven.

7. Your conduct as set out in any of allegations (1) to (5) above lacked integrity.

Mr Swarfield admitted that the misconduct set out in allegations 1(a)-(j), 2(a)-(c), 3, 4, and 5 constituted a lack of integrity in that he demonstrated a failure to adhere to the ethical standards of his profession.

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

The panel considered that Mr Swarfield had failed to act within the higher standards expected of a teacher by his conduct found proven at allegations (1) to (5).

Mr Swarfield's behaviour towards Pupil A on the School trip and between 6 November 2016 and 30 June 2017, including his sexual relationship with Pupil A, the messages he sent to Pupil A in February 2020 and telling Pupil D that he would deny what had happened with Pupil A and directing him to do the same, demonstrated a failure to adhere to the ethical standards of his profession pursuant to the *Wingate* test.

The panel noted that Mr Swarfield had steadfastly denied the allegations for a significant period of time.

The panel found allegation 7 proven.

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

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

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

The panel was satisfied that the conduct of Mr Swarfield in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Swarfield 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
 - showing tolerance of and respect for the rights of others

- 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 the conduct of Mr Swarfield fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Swarfield'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 harassment 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.

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. Although the panel found that each of the allegations 1 to 7 amounted to unacceptable professional conduct, the panel considered that it would also be appropriate to cumulate the allegations as a sustained course of serious misconduct.

The panel noted that although several of the allegations took place outside the School premises, they were relevant to Mr Swarfield's profession as a teacher in that he was engaging in sexual activity with and messaging a student at the School in which he taught.

Accordingly, the panel was satisfied that Mr Swarfield 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 they behave.

The findings of misconduct were 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 Swarfield's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2, 3, 4, 5, 6 and 7 proved, the panel further found that Mr Swarfield's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

In the light of the panel's findings against Mr Swarfield, which involved engaging in sexual communication and activity with Pupil A, buying her a gift, drinking alcohol with her and telling Pupil D he would deny what had happened and that Pupil D should do the same, 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 Swarfield was not treated with the utmost seriousness when regulating the conduct of the profession.

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

Notwithstanding 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 Swarfield. 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 Swarfield. 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 are relevant in this case are:

- 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 deep-seated attitude that leads to harmful behaviour;
- 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;
- collusion of concealment including:
 - failure to challenge inappropriate actions, defending inappropriate actions or concealing inappropriate actions; and
 - lying to prevent the identification of wrongdoing.

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 to suggest that Mr Swarfield's actions were not deliberate.

There was no evidence to suggest that Mr Swarfield was acting under extreme duress, and, in fact, the panel found Mr Swarfield's actions to be calculated and sexually motivated.

There was no evidence that Mr Swarfield demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.

The panel considered the letters and emails sent by Mr Swarfield.

Mr Swarfield stated that February 2020 was a difficult and stressful period as [REDACTED]. He stated that he was [REDACTED] to help cope with the pressures.

Mr Swarfield explained that he has since undergone an [REDACTED] course which has proven successful alongside [REDACTED]. He stated that he is very sorry for his online communications, two of which he barely recalls.

Mr Swarfield stated in an email on 2 November 2022, that he has heartbreakingly admitted bringing the profession into disrepute and now has responsibilities away from education so he can support his family.

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 was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Swarfield 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 Swarfield. The panel considered that Mr Swarfield's insufficient insight and remorse of the impact that his behaviour had on pupils, particularly a vulnerable 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 to recommend that a review period of the order should be considered. 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 Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in,

harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr Swarfield was responsible for engaging in sexual conversation and activity with Pupil A, buying her a necklace and bracelet, drinking alcohol with her and telling Pupil D he would deny what had happened and that Pupil D should do the same.

The panel was not satisfied that Mr Swarfield had demonstrated sufficient insight and/or remorse and, consequently, was concerned about the risk of repetition in his behaviours and therefore the need to safeguard pupils' welfare and maintain public trust and confidence in the profession.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found none of these behaviours to be relevant.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate given the circumstances for the prohibition order to be recommended without provision for a 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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Martin Swarfield should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr Swarfield 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

- showing tolerance of and respect for the rights of others
- 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 Swarfield fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of engaging in inappropriate and sexual communication and sexual activity with a Pupil.

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 Swarfield, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, “In the light of the panel’s findings against Mr Swarfield, which involved engaging in sexual communication and activity with Pupil A, buying her a gift, drinking alcohol with her and telling Pupil D he would deny what had happened and that Pupil D should do the same, 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 Swarfield stated in an email on 2 November 2022, that he has heartbreakingly admitted bringing the profession into disrepute and now has responsibilities away from education so he can support his family.” I have however noted that the panel went on to say “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 Swarfield. The panel considered that Mr Swarfield’s insufficient insight and remorse of the impact that his behaviour had on pupils, particularly a vulnerable pupil was a significant factor in forming that opinion.” In my judgement, the lack of full insight or remorse means that there is some risk of the

repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Swarfield was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of sexual communication and activity 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 Swarfield and the panel comment “There was no evidence that Mr Swarfield demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.”

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. The panel has said, “The panel was not satisfied that Mr Swarfield had demonstrated sufficient insight and/or remorse and, consequently, was concerned about the risk of repetition in his behaviours and therefore the need to safeguard pupils' welfare and maintain public trust and confidence in the profession.”

I have also placed considerable weight on the finding of the panel that “The panel noted that although several of the allegations took place outside the School premises, they were relevant to Mr Swarfield's profession as a teacher in that he was engaging in sexual activity with and messaging a student at the School in which he taught.”

In addition I have given weight to the following “There was no evidence to suggest that Mr Swarfield was acting under extreme duress, and, in fact, the panel found Mr Swarfield's actions to be calculated and sexually motivated.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Swarfield has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by full remorse or insight, 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 that no provision should be made for a review period.

I have considered the panel's comments "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr Swarfield was responsible for engaging in sexual conversation and activity with Pupil A, buying her a necklace and bracelet, drinking alcohol with her and telling Pupil D he would deny what had happened and that Pupil D should do the same."

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, the lack of full insight or remorse and the risk of repetition.

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 Martin Swarfield 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 Swarfield 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 Swarfield 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 'SABuxcey', with a horizontal line underneath the first few letters.

Decision maker: Sarah Buxcey

Date: 10 January 2024

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