



Teaching
Regulation
Agency

Damien Nicholson: Professional conduct panel outcome

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

January 2024

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

Teacher:	Damien Nicholson
Teacher ref number:	0477748
Teacher date of birth:	8 May 1977
TRA reference:	19419
Date of determination:	10 January 2024
Former employer:	Wave Multi-Academy Trust, Cornwall

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened in person at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT on 09 and 10 January 2024 to consider the case of Mr Nicholson.

The panel members were Mrs Bev Williams (teacher panellist), Mr Stephen Chappell (lay panellist– in the chair) and Dr Sian Rees-Evans (lay panellist).

The legal adviser to the panel was Mr Jermel Anderson of Blake Morgan solicitors.

The presenting officer for the TRA was Mr Ciju Puthuppally of Three Raymond Buildings.

Mr Nicholson was present and was represented by Ms Maria Aisha of Cornwall Street Chambers.

The hearing took place in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 04 October 2023, as amended at a previous hearing.

The panel also acknowledged at the outset, that it was provided with evidence of health issues being relevant in relation to the actions as alleged.

It was alleged that Mr Nicholson was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

Whilst a Food Technology Teacher at Carrick AP Academy:

1. He victimised and/or harassed one or more members of staff in that he;
 - a. On an unknown date on or around 2017 sent an inappropriate message to then Colleague A via Facebook Messenger that was of a sexual nature, including but not limited to;
 - i. Inviting Colleague A to a "Toga Party [with] you [him] and the bedsheets" or words to that effect;
 - b. From February to May 2019 he sent various inappropriate messages to then Colleague B. via Facebook Messenger which were of a sexual nature, including but not limited to;
 - i. Things he would like to do to her sexually;
 - ii. That "[he]wanted to meet up to see what [she] is really like" or words to that effect; and
 - iii. That he was "watching porn and wanted her to watch it with [him]" or words to that effect;
 - c. He continued to send messages similar to those referred to in paragraph 1(b)(i)-(iii) despite being asked by Colleague B to stop.
 - d. On an unknown date on or around May 2019 he sent various inappropriate messages to then Colleague C via Facebook Messenger which were of a sexual nature, including but not limited to;
 - i. That he wanted to "make love to [her]" or words to that effect;
 - ii. The size of his penis; and
 - iii. That he was "watching porn and wanted [her] to be there too" or words to that effect;

2. Whilst a teacher at Carrick AP Academy between on or around 04 September 2017 to December 2019 and whilst employed as Assistant Vice Principal at Restormel Academy from on or around December 2019 you:

- a. From 13 December 2019 to 9 February 2020 sent various inappropriate and/or sexual messages to Colleague D via Facebook Messenger that were of a sexual nature, including but not limited to;
 - i. "Pills, coke, it's been my life for years." or words to that effect;
 - ii. "Am also pleased I chose to avoid the Christmas night out and grabbing bottoms!" or words to that effect;
 - iii. "How does coke make you feel in the morning?" or words to that effect;
 - iv. "If you were single would you date a guy that much older than you" or words to that effect;
 - v. "You look stunning in photos!" or words to that effect;
 - vi. "If I was twenty years younger I would be asking you out" or words to that effect;
 - vii. "I'll send you a selfie from the nudist beach" or words to that effect;
 - viii. "Now we're friends and not colleagues, can I mention you have a nice bottom" or words to that effect;
 - ix. "Save a photo of me on your phone and you can look at me whenever you like! I'll do the same with you." or words to that effect;
 - x. "I could take a photo of your bottom when I pop in." or words to that effect; xi. "I like to walk around naked when I'm home alone" or words to that effect;
 - xii. "...I should clarify that the rest of your body is just as lovely as your bottom" or words to that effect; xiii. "I could be your pimp" or words to that effect;
 - xiv. "If I was your pimp, does that mean I'd get to see your bottom?" or words to that effect;
 - xv. "You know I love you!" or words to that effect;
 - xvi. "But you are fun (as well as having a nice bottom)..." or words to that effect;

- xvii. "Have I got a nice bottom?" or words to that effect;
 - xviii. "Am feeling naughty!!!" or words to that effect;
 - xix. "Is it weird to look at your photos?" or words to that effect;
 - xx. "I will look at your photo because you are beautiful!" or words to that effect; and
 - xxi. "Will you come to my bedroom?" or words to that effect.
3. His conduct, if found proven regarding one or more of the allegations at 1(a) and/or 1(b) and/or 1(c) and/or 1(d)(d) and/or 2(a)(iv) – (xxi) was sexually motivated.
4. Based on his conduct regarding one or more of the allegations at 1(a) and/or 1(b) and/or 1(c) and/or 1(d)(d) and/or 2(a)(iv) – (xxi) he;
- a. used obscene and/or offensive language toward one or more members of staff;
 - b. failed to obey instructions when asked to stop.

The panel was presented with a statement of agreed facts signed by Mr Nicholson in which he admitted the facts of all of the allegations.

Preliminary applications

The panel agreed to a request made on behalf of Mr Nicholson whereby evidence pertaining to Mr Nicholson's health would be heard in private. The panel was satisfied that the Article 8 rights of Mr Nicholson were engaged, due to the sensitive nature of the material within the bundle. It therefore felt that given the engagement, there was a risk to prejudice to Mr Nicholson and therefore determined that it would be in the interests of justice to proceed with the hearing entirely in private. It would have been impractical to hold some part of the hearing in public and some of it in private due to the intrinsic nature of the health and personal issues.

The panel also heard an application on behalf of Mr Nicholson to admit an additional document which supplemented his statement. The panel agreed to admit the document,

given that the material contained within presented no new factual evidence and was therefore not prejudicial and simply added to evidence that had already provided.

The additional document was therefore added to the paragraph with PDF numbers 452 – 457.

The Panel also received an application from the TRA to amend allegation 4(b) due to the substance of the allegation already existing within 1(c). The Panel was confident that the allegations could be properly expressed through the amendment and therefore, allowed the application.

The Panel therefore confirmed the acceptance of all the preliminary applications.

Summary of evidence

Documents

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

Section 1: Chronology and list of key people – pages 4 to 6

Section 2: Notice of Referral Response, Statement of Agreed Facts and Notice of Proceedings and Response – pages 6 to 37

Section 3: Teaching Regulation Agency documents – pages 38 to 222

Section 4: Teacher documents – pages 223 to 451

Section 5: Additional document from the Teacher – pages 452 to 457

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

Witnesses

No witnesses were called by the TRA.

The panel heard from Mr Nicholson who gave oral evidence. The evidence provided by Mr Nicholson explored multiple historical themes relating his [REDACTED]. The clinical psychologist report as provided by Mr Nicholson provided a summary of these issues as:

“[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. The panel also acknowledged, as raised by the representative of Mr Nicholson, that no statement was provided by Colleague C, but it was satisfied that the allegations in relation to it were demonstrable on the balance of probabilities due to the other evidence provided.

Mr Nicholson was employed as a food technology teacher at Carrick AP Academy from November 2016. Carrick AP Academy and Restormel Academy ("the Academy") are part of the Wave Multi Academy Trust ("the Trust"). From November 2019, Mr Nicholson was promoted to the role of Assistant Vice Principal at the Academy.

In May 2019, it was suggested that Mr Nicholson had messaged one female colleague with what were deemed to be inappropriate messages. The matter was dealt with by way of a discussion with the principal and given a professional instruction that such conduct should not to be repeated.

On 10 February 2020, a member of staff made a separate report to the principal of the Academy regarding messages received from Mr Nicholson.

Shortly afterwards, Mr Nicholson was suspended and an investigation commenced into his conduct.

At the conclusion of that investigation, Mr Nicholson was invited to a disciplinary hearing.

However, further allegations were made by two other members of staff leading to the investigation being reopened.

A disciplinary hearing was finally held on 14 July 2020. Mr Nicholson was subsequently referred to the TRA.

Findings of fact

The findings of fact are as follows:

- 1. You victimised and/or harassed one or more members of staff in that you;**
 - a. On an unknown date on or around 2017 sent an inappropriate message to then Colleague A via Facebook Messenger, including but;**

- i. Inviting Colleague A to a "Toga Party [with] you me and the bedsheets" or words to that effect;**

Mr Nicholson admitted the facts of allegation 1(a).

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 1(a) proved.

- b. From February to May 2019 you sent various inappropriate messages to then Colleague B. via Facebook Messenger, including but not;**
 - i. Things you would like to do to her sexually;**
 - ii. That "you wanted to meet up to see what [she] is really like" or words to that effect; and**
 - iii. That you were "watching porn and wanted her to watch it with you" or words to that effect;**

Mr Nicholson admitted the facts of allegations 1(b)(i) to (iii).

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 1(a) proved.

- c. You continued to send messages similar to those referred to in paragraph 1(b)(i)-(iii) despite being asked by Colleague B to stop.**

Mr Nicholson admitted the facts of allegation 1(c).

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 1(c) proved.

- d. On an unknown date on or around May 2019 you sent various inappropriate messages to then Colleague C via Facebook Messenger including;**
 - i. That you wanted to "make love to [her]" or words to that effect;**
 - ii. The size of your penis; and**
 - iii. That you were "watching porn and wanted [her] to be there too" or words to that effect;**

Mr Nicholson admitted the facts of allegation 1(d)(i) to (iii).

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 1(a) proved.

2. Whilst a teacher at Carrick AP Academy between on or around 04 September 2017 to December 2019 and whilst employed as Assistant Vice Principal at Restormel Academy from on or around December 2019 you:
- a. From 13 December 2019 to 9 February 2020 sent various inappropriate and/or sexual messages to Colleague D via Facebook Messenger that were of a sexual nature, including but not limited to;
- i. "Pills, coke, it's been my life for years." or words to that effect;
 - ii. "Am also pleased I chose to avoid the Christmas night out and grabbing bottoms!" or words to that effect;
 - iii. "How does coke make you feel in the morning?" or words to that effect;
 - iv. "If you were single would you date a guy that much older than you" or words to that effect;
 - v. "You look stunning in photos!" or words to that effect;
 - vi. "If I was twenty years younger I would be asking you out" or words to that effect;
 - vii. "I'll send you a selfie from the nudist beach" or words to that effect;
 - viii. "Now we're friends and not colleagues, can I mention you have a nice bottom" or words to that effect;
 - ix. "Save a photo of me on your phone and you can look at me whenever you like! I'll do the same with you." or words to that effect;
 - x. "I could take a photo of your bottom when I pop in." or words to that effect;
 - xi. "I like to walk around naked when I'm home alone" or words to that effect;
 - xii. "...I should clarify that the rest of your body is just as lovely as your bottom" or words to that effect;
 - xiii. "I could be your pimp" or words to that effect;

- xiii. "I could be your pimp" or words to that effect;
- xiv. "If I was your pimp, does that mean I'd get to see your bottom?" or words to that effect;
- xv. "You know I love you!" or words to that effect;
- xvi. "But you are fun (as well as having a nice bottom)..." or words to that effect;
- xvii. "Have I got a nice bottom?" or words to that effect;
- xviii. "Am feeling naughty!!!" or words to that effect;
- xix. "Is it weird to look at your photos?" or words to that effect;
- xx. "I will look at your photo because you are beautiful!" or words to that effect; and
- xxi. "Will you come to my bedroom?" or words to that effect.

Mr Nicholson admitted the facts of allegation 2(a).

Mr Nicholson admitted that he sent each of the messages particularised in paragraph 2(a)(i) to (xxi) to Colleague D, copies of which were included in evidence.

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 1(a) proved.

3. Your conduct, if found proven regarding one or more of the allegations at 1(a) and/or 1(b) and/or 1(c) and/or 1(d) and/or 2(a)(iv) – (xxi) was sexually motivated.

Mr Nicholson admitted the facts of allegation 3.

The panel had consideration for the requisite legal tests in relation to this allegation. The panel considered that the definition of sexual, pursuant to s78 of the Sexual Offences Act 2003, was met. It also considered that on the balance of probabilities, the conduct demonstrated that there was either the pursuit of a future sexual relationship, a pursuit of sexual gratification, or both.

The determination by the panel made specific acknowledgement of the language used by Mr Nicholson, which make references to both being gratified by the exchanges, but also contained invitations that were sexual in their nature.

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 3 proved.

4. **Based on your conduct regarding one or more of the allegations at 1(a) and/or 1(b) and/or 1(c) and/or 1(d)(d) and/or 2(a)(iv) – (xxi) you;**
 - a. **used obscene and/or offensive language toward one or more members of staff;**

Mr Nicholson admitted the facts of allegation 4(a).

Mr Nicholson admitted that his conduct regarding the allegations at 1 and 2, amounted to obscene and offensive language.

On the basis of Mr Nicholson's admission, which was consistent with the evidence before the panel, it found allegation 4(a) .

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

Having found all 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.

The panel felt that the facts as proved were serious. It found that on the balance of probabilities, that both Colleague B and Colleague D were vulnerable as set out in their statements. Both colleagues had vulnerabilities due to the difficulties that they had experienced in previous relationships. In addition to this, Colleague D was also in a more junior position than Mr Nicholson who was providing her with professional advice and guidance. The panel was particularly concerned by the fact that, by his own admission, and also as evidenced by the TRA, that Colleague B had told Mr Nicholson to stop. Additionally, Mr Nicholson had been told to stop his conduct by the Principal of the school as early as May 2019.

The panel felt that the seriousness of the conduct was also exacerbated by the fact that some of the conduct as found proved, was sexually motivated.

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 Nicholson in relation to the facts found proved, involved breaches of the Teachers’ Standards.

The panel considered that, by reference to Part 2, Mr Nicholson 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
 - 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, and maintain high standards in their own attendance and punctuality.

The Panel also noted that the following parts of the School code of conduct were also engaged and not followed :

- “Wave Multi Academy Trust wishes to promote the health and well-being of employees and minimise problems at work arising from the effects of [REDACTED]. Employees are encouraged to [REDACTED].”
- “We expect all support staff, governors and volunteers to also act with personal and professional integrity, respecting the safety and wellbeing of others.”
- “Staff set an example to Pupils. They will: “Adhere to the Teachers’ Standards”

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

The panel also considered whether Mr Nicholson’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 of the Advice.

The panel found that the offences of

- Sexual Activity and
- Harassment and/or stalking

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

Accordingly, the panel was satisfied that Mr Nicholson 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. This is particularly due to the fact that the majority of the conduct engages relationships with colleagues who worked within the same academy trust. Whilst the majority of the conduct technically took place outside of the education setting, it certainly involved discussion of School and related matters and therefore, could have a negative impact on the public's perception of the profession.

Additionally, the Panel felt that a teacher engaging in discussions of [REDACTED] had the potential to cause a particularly adverse impact on the public's perception. It also noted that Mr Nicholson's' conduct was repetitive and involved multiple teachers.

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

Having found the facts of particulars of all allegations proved, the panel further found that Mr Nicholson's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

These findings were made notwithstanding the [REDACTED] and contextual evidence that was presented to the panel in relation to Mr Nicholson's [REDACTED]. The panel acknowledged that the [REDACTED] as presented were part of a background context where Mr Nicholson was experiencing [REDACTED]. Notwithstanding this, the conduct would likely have a negative impact on the colleagues concerned and the public's perception of him as a teacher. These are not low level matters, the conduct also falls significantly short of the standards expected of a teacher. It does touch on the standing of the profession and is relevant and closely tied to the Teachers Standards.

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 protection of other members of the public
- the maintenance of public confidence in the profession – assessed by reference to the standard of the ordinary intelligent and well-informed citizen who both appreciates the seriousness of the proposed “sanction” and recognises the high standards expected of all teachers, as well as other issues involved in the case
- declaring and upholding proper standards of conduct;

In the light of the panel’s findings against Mr Nicholson, which involved a sequence of inappropriate and sexually motivated behaviour, involving sending messages to a number of female colleagues, the public interest considerations as above, were all felt to be relevant.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nicholson were not treated with the utmost seriousness when regulating the conduct of the profession.

In view of the clear public interest considerations that were present, the panel considered carefully whether it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Nicholson. The panel recognised that a finding of both UPC and of bringing the profession into disrepute will likely have an impact on Mr Nicholson’s future career prospects. The panel also weighed the decision as to whether to impose a prohibition order against the need for the maintenance of public confidence in the profession, and the declaring and upholding of proper standards within the teaching profession. The panel felt that due to the steps taken by Mr Nicholson to mitigate against risks such as proactively [REDACTED], seeking out a [REDACTED], being transparent with those who can provide him with [REDACTED], a finding of UPC may mitigate against the need for further sanction.

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 Nicholson. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers’ Standards;
- 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;

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. In the light of the panel's findings :

The panel found that Mr Nicholson's actions were deliberate. However, it also acknowledged that whilst not directly acting under duress, there were significant stressors which impacted his decision to [REDACTED], and then engage in inappropriate dialogue with colleagues.

The panel were presented with evidence throughout the case which indicated a complex mix of [REDACTED] and [REDACTED] which had a tangible impact upon Mr Nicholson. The panel were directly drawn to the clinical psychologists' report which stated that "It is important to consider that Mr Nicholson's behaviours were deemed to be out of character and that he has shown remorse for the harm that has been caused". The panel also felt that remorse was also demonstrated by the live evidence given by Mr Nicholson, who presented as a contrite and reflective individual. It is apparent that Mr Nicholson has engaged in significant self-reflection and has taken many proactive steps since these incidents took place to better understand [REDACTED] and the [REDACTED], this showed the panel that he has clear insight.

The panel also accepted that Mr Nicholson had a previous good record and it read several testimonials, some of which portrayed his experience within the classroom as relevant. The panel noted that at least two of the references came from recent employers, and considered that this is a reflection of his openness and overall dedication to self-improvement. It was particularly appreciative of a reference which stated that Mr Nicholson was "a key member of staff at the PRU" and that his "skills were greatly missed" following his departure. Ultimately, the panel accepted the submission that the incidents were unlikely to be repeated.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Notwithstanding the nature and severity of the behaviour exhibited by Mr Nicholson, having considered the mitigating factors that were present, and the overall contextual background to this case, the panel determined that a recommendation for a prohibition order would not be appropriate. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to Mr Nicholson as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found 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 Damien Nicholson should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Nicholson 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
 - 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, and maintain high standards in their own attendance and punctuality.

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

The findings of misconduct are serious as they involved a sequence of inappropriate and sexually motivated behaviour, including sending messages to a number of female colleagues.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have

considered therefore whether or not prohibiting Mr Nicholson and the impact that will have on the teacher, is proportionate and in the public interest.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel were presented with evidence throughout the case which indicated a complex mix of [REDACTED] and [REDACTED] which had a tangible impact upon Mr Nicholson. The panel were directly drawn to the clinical psychologists' report which stated that "It is important to consider that Mr Nicholson's behaviours were deemed to be out of character and that he has shown remorse for the harm that has been caused". The panel also felt that remorse was also demonstrated by the live evidence given by Mr Nicholson, who presented as a contrite and reflective individual. It is apparent that Mr Nicholson has engaged in significant self-reflection and has taken many proactive steps since these incidents took place to better understand [REDACTED] and the [REDACTED], this showed the panel that he has clear insight." I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "the conduct would likely have a negative impact on the colleagues concerned and the public's perception of him as a teacher. These are not low level matters, the conduct also falls significantly short of the standards expected of a teacher. It does touch on the standing of the profession and is relevant and closely tied to the Teachers Standards."

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

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

I have also considered the impact of a prohibition order on Mr Nicholson himself and the panel comment "The panel also accepted that Mr Nicholson had a previous good record and it read several testimonials, some of which portrayed his experience within the classroom as relevant. The panel noted that at least two of the references came from recent employers, and considered that this is a reflection of his openness and overall dedication to self-improvement. It was particularly appreciative of a reference which stated that Mr Nicholson was "a key member of staff at the PRU" and that his "skills were greatly missed" following his departure. Ultimately, the panel accepted the submission that the incidents were unlikely to be repeated. A prohibition order would prevent Mr

Nicolson 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 “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. This is particularly due to the fact that the majority of the conduct engages relationships with colleagues who worked within the same academy trust. Whilst the majority of the conduct technically took place outside of the education setting, it certainly involved discussion of School and related matters and therefore, could have a negative impact on the public’s perception of the profession.”

I have also placed considerable weight on the finding of the panel that “In view of the clear public interest considerations that were present, the panel considered carefully whether it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Nicholson. The panel recognised that a finding of both UPC and of bringing the profession into disrepute will likely have an impact of Mr Nicholson’s future career prospects. The panel also weighed the decision as to whether to impose a prohibition order against the need for the maintenance of public confidence in the profession, and the declaring and upholding of proper standards within the teaching profession. The panel felt that due to the steps taken by Mr Nicholson to mitigate against risks such as proactively [REDACTED], seeking out a [REDACTED], being transparent with those who can provide him with [REDACTED], a finding of UPC may mitigate against the need for further sanction.”

I have given weight in my consideration of sanction therefore, to the contribution that Mr Nicholson has made to the profession, along with the level of insight and remorse demonstrated and the remedial steps he has taken to mitigate against the risk of repetition.

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

A handwritten signature in black ink, appearing to read 'SABuxcey', with a stylized, cursive script.

Decision maker: Sarah Buxcey

Date: 22 January 2024

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