



Teaching
Regulation
Agency

Mr James William Rich: 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:	Mr James William Rich
Teacher ref number:	9849100
Teacher date of birth:	4 February 1977
TRA reference:	17630
Date of determination:	15 January 2024
Former employer:	Leicester Grammar School, Leicester

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 9 to 15 January 2024 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr James William Rich. The hearing proceeded virtually on the final day of the hearing.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mr Duncan Tilley (lay panellist) and Ms Tanya Callman (lay panellist).

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

The presenting officer for the TRA was Mr Thomas Sherrington of St John's Buildings, instructed by Browne Jacobson LLP solicitors.

Mr Rich was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 26 October 2023.

It was alleged that Mr Rich was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst he was employed as Deputy Headteacher of Leicester Grammar School ('the School'):

1. Whilst she was a pupil, he failed to maintain appropriate professional boundaries with Pupil A on one or more occasions, including by:
 - a. Spending excessive periods of time together and/or spending periods of time together at times which were not required for lessons and/or tuition;
 - b. Giving her gift(s) and/or snacks which he did not give to other pupils;
 - c. Accepting gift(s) from Pupil A for one or more of his children;
 - d. Providing Pupil A with private details of his family life;
 - e. Making one or more comments about Pupil A to other pupils which were excessively favourable.
2. Shortly after Pupil A left the School, he engaged in sexual activity with her on one or more occasions.
3. His conduct as may be found proven at 1 above was sexually motivated and/or conduct of a sexual nature.

Mr Rich denied the allegations.

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.

Application to proceed in the absence of the teacher

Mr Rich was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Rich.

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

The panel was satisfied that the Notice of Proceedings had been sent to Mr Rich in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the '2018 Procedures').

The panel also noted an email from Mr Rich dated 13 December 2023 in which he stated that he would not have any further involvement in the case, and that he understood this meant that proceedings would be conducted in his absence.

The panel concluded that Mr Rich's absence was voluntary and that he was aware that the matter would proceed in his absence.

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

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

Application to give evidence via video link

The panel considered a preliminary application from the presenting officer for the TRA's witnesses to give evidence via video link.

These witnesses were:

- Pupil B
- Pupil C
- Pupil D
- [REDACTED]

The panel heard representations from the presenting officer in respect of the application. It was submitted that, as a result of the late postponement of a prior professional conduct panel hearing, the TRA's witnesses remained engaged on the basis that it was suggested to them at the adjourned hearing that the panel may be amenable to the witnesses giving their evidence virtually. Further, it was submitted that allowing the witnesses to give evidence via video link would allow the hearing to proceed with due expedition.

The panel was referred to paragraph 4.49 of the 2018 Procedures in which it is stated that the procedure at a professional conduct panel hearing will be determined by the chair.

Whilst the panel noted that there was no formal direction giving at the adjourned hearing, the panel considered that allowing the witnesses to give evidence via video link would allow the hearing to proceed in a timely manner and was reasonable in the circumstances. The panel therefore granted the application.

In any event, it was noted that one of the TRA's witnesses, [REDACTED], attended the hearing to give oral evidence in person.

Application to admit additional documents

The panel considered a preliminary application from the presenting officer for the admission of additional documents.

The presenting officer's documents were:

- Teacher misconduct referral form dated 10 October 2018
- Note of telephone call (typed and handwritten) with Pupil B dated 4 October 2018

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the 2018 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the 2018 Procedures.

The panel heard representations from the presenting officer in respect of the application. The panel was mindful of ensuring that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Rich was neither present nor represented. However, the panel considered the additional documents were relevant. Accordingly, the documents were added to the bundle.

Application for part of the hearing to be heard in private

The panel considered an application from the presenting officer that Pupil B's oral evidence should be heard in private. In the alternative, the presenting officer submitted

that part of the hearing [REDACTED] and any evidence which may identify Pupil B - should be heard in private.

The panel heard submissions from the presenting officer on the application before reaching its decision.

The panel granted the application in part. The panel considered that it was not in the public interest for the whole of Pupil B's evidence to be heard in private, noting that Pupil B was [REDACTED] and that there were no submissions from the presenting officer that Pupil B should be treated as a vulnerable witness. However, the panel considered it was not contrary to the public interest for the part of the hearing, namely [REDACTED] and any evidence that may identify Pupil B to be heard in private.

The panel considered that the areas covered in the presenting officer's alternative application legitimately related to aspects of Pupil A and Pupil B's private life and there was no contrary public interest in those areas being discussed in public. The hearing was still being held in public and these were discrete and limited areas which would not undermine the public's ability to otherwise understand the case. The panel therefore granted the application.

Summary of evidence

Documents

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

- Index: pages 1 to 7
- Section 1: Preliminary documents – page 8
- Section 2: Notice of proceedings and response – pages 10 to 31
- Section 3: TRA witness statements – pages 33 to 115
- Section 4: TRA documents – pages 117 to 202
- Section 5: Teacher documents (at investigation stage) – pages 204 to 223
- Section 6: Teacher documents (at hearing stage) – pages 225 to 510.

In addition, the panel agreed to accept the following:

- Teacher misconduct referral form dated 10 October 2018
- Note of telephone call (typed and handwritten) with Pupil B dated 4 October 2018

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

Witnesses

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

- Pupil B
- Pupil C
- Pupil D
- [REDACTED]

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Rich was employed at Leicester Grammar School ('the School') from September 2012 to December 2018. He was initially employed as deputy headteacher but later held the position of acting headteacher.

Pupil A attended the School from [REDACTED].

On [REDACTED] after Pupil A had left the School, a representative of the School was contacted by the parents of Pupil A to report that Pupil A had been in a committed relationship with Mr Rich. [REDACTED] had received a letter from the [REDACTED] dated 30 August 2018 which disclosed that Mr Rich and Pupil A had been in a relationship since the summer of 2017.

On [REDACTED], the parents of Pupil A wrote a letter to [REDACTED], which sought to clarify their understanding of [REDACTED] relationship with Mr Rich. The letter stated that Pupil A and Mr Rich had confirmed that they had been in a relationship for the past year.

Mr Rich attended a meeting with the School on 19 September 2018 regarding the content of the letter from [REDACTED] conducted an investigation into the content of the letter.

The matter was referred to the TRA on 30 October 2018.

Mr Rich was invited to attend a disciplinary hearing on 29 November 2018.

Findings of fact

The findings of fact are as follows:

1. **While she was a pupil, you failed to maintain appropriate professional boundaries with Pupil A on one or more occasions, including by:**
 - a. **Spending excessive periods of time together and/or spending periods of time together at times which were not required for lessons and/or tuition;**

The panel considered the written evidence of [REDACTED].

[REDACTED] stated that Pupil A and Mr Rich appeared to get on well and that Pupil A requested that Mr Rich [REDACTED] during her time at the School's sixth form.

[REDACTED] recalled that she was in contact with Mr Rich in relation to any concerns [REDACTED] she thought the School should be aware of relating to [REDACTED].

[REDACTED] submitted that, in around November 2015, she approached Mr Rich to ask that he "*keep a close eye*" on Pupil A and Pupil A's sibling. [REDACTED] submitted that Pupil A and Mr Rich had a relationship that she would describe as "*comfortable*", however that this was due to her asking Mr Rich to keep a close eye on Pupil A [REDACTED].

Whilst [REDACTED] had not been called to give evidence at the hearing, the panel noted that [REDACTED] written statement given to the TRA dated 10 November 2019 was consistent with the letter sent to the School from [REDACTED] in September 2018. In this letter, it was stated that [REDACTED] had approached the School, including Mr Rich, to provide additional support to Pupil A during a period in which [REDACTED] and Pupil A [REDACTED].

The panel considered the witness statement and oral evidence of Pupil B, [REDACTED]. Pupil B submitted that she was [REDACTED]. Pupil B reported that Mr Rich would interact with Pupil A more frequently than with other pupils, and in a less professional manner.

Pupil B's evidence was that the interactions became more frequent and brazen during her and Pupil A's final four years at the School. In particular, Pupil B recalled that, on a School trip to [REDACTED], Pupil A would spend a lot of time with Mr Rich during the day, at the expense of spending time with her peers. Pupil B recalled that Pupil A and Mr Rich would walk together during tours and that Pupil A chose to sit next to Mr Rich at the front of the coach when others were sat at the back.

Pupil B recalled that, when she and Pupil A entered the School's Sixth Form, pupils were permitted to select their [REDACTED]. Pupil A selected Mr Rich as one of her choices. Pupil B stated that Mr Rich and Pupil A would have extensive 'debriefs' in Mr Rich's

office, and that Mr Rich spent more time with Pupil A generally than with any of his other tutees. Pupil B's evidence was that Mr Rich's office was in a private corridor and that most students would ask at reception before heading to speak to a senior staff member. However, Pupil B submitted that Pupil A's relationship with Mr Rich was such that she could walk in at any time.

The panel considered the witness statement and oral evidence of Pupil C, [REDACTED]. Pupil C recalled a trip which Pupil A and Pupil C both attended during [REDACTED]. Pupil C recalled that the trip lasted around 3 to 4 days, during which they were travelling across [REDACTED] on a coach. Pupil C recalled that on the trip, whilst the friendship group would sit together towards the back of the coach, Pupil A would sit at the front beside Mr Rich. The panel noted that this was consistent with the evidence of Pupil B.

Pupil C also gave evidence in respect of a trip to [REDACTED] in their final year at the School. Pupil C recalled that she attended the trip, as did Pupil A. Pupil C's evidence was that Mr Rich attended to supervise the trip. Pupil C recalled Mr Rich and Pupil A walking ahead of the group, side by side. Pupil C's evidence was that other pupils noticed this and asked Pupil C and her friends about it. Pupil C also recalled that, on one occasion, a photograph of Pupil A and Mr Rich walking ahead of the group was taken by another pupil on the trip. Pupil C recalled being disappointed that Pupil A had chosen to spend time with Mr Rich at the expense of spending time with her peers.

The panel considered the witness statement and oral evidence of Pupil D, [REDACTED]

Pupil D submitted that, during their [REDACTED] years, she and other pupils in her friendship group [REDACTED]. Pupil D recalled that, around once a week, Pupil A would not meet them for lunch until very late, or not at all. Pupil D recalled that this increased to "*as often as two times a week*" and, when Pupil A "*would show up to lunch, she would say casually that she had been chatting to Mr Rich*".

The panel considered the written submissions of Mr Rich. Mr Rich described the relationship between himself and Pupil A as close, but "*entirely orthodox*". Mr Rich submitted that he did not spend any time with Pupil A outside of teaching or tutoring, stating that he never had cause to. Mr Rich submitted that he did not spend any more time with Pupil A than he did with other pupils or tutees and never "*sought out*" Pupil A. Mr Rich submitted that, when Pupil A was his [REDACTED], he met with Pupil A each week in his office, which had a window and was on a public corridor.

Mr Rich denied sitting alongside Pupil A on a coach and submitted that he did not spend disproportionate amounts of time with Pupil A on any School trips.

The panel considered the evidence presented to it and concluded that, whilst there was evidence that Pupil A and Mr Rich spent considerable time together, the panel could not

be satisfied that the time spent was excessive given the nature of Mr Rich's role in the School and his involvement in Pupil A's academic progress.

Further, whilst the panel accepted the evidence of Pupil B and Pupil C that Mr Rich and Pupil A spent significant periods of time together, there was insufficient evidence that it was at times which were not required for lessons and/or tuition.

The panel found allegation 1(a) not proven.

b. **Giving her gift(s) and/or snacks which you did not give to other pupils;**

The panel further considered the evidence of Pupil B who stated that, during a trip to [REDACTED], she witnessed Mr Rich give Pupil A a 'KitKat Chunky' while they were travelling on a coach. Pupil B's evidence was that he did not give any other pupils food, and that several people on the trip noticed this. Pupil B stated that this became a joke that circulated amongst pupils.

Further, Pupil B stated that Mr Rich had a tradition of giving his tutees gifts when they left the School. Pupil B recalled that Pupil A was given a gift basket which contained "*all her favourite things*", including favourite tea bags, favourite chocolate, and a special edition of a book. Pupil B recalled that Mr Rich's other tutees received postcards with a few lines of text, along with some chocolates. Pupil B further recalled that Pupil A received a postcard with a noticeably large block of text on it, but then Pupil A would not let her hold and read the postcard.

The panel also considered further the evidence of Pupil C. Pupil C recalled that, on this trip, Mr Rich gave Pupil A a 'KitKat Chunky' when it was not a designated break time. Pupil C's recollection was that Mr Rich did not give anything to any other pupil and that it became a "*running comment*" among school friends that Pupil A had received this. The panel noted that this was consistent with the evidence of Pupil B.

The panel noted the evidence of Mr Rich, who stated that he never gave Pupil A snacks. Mr Rich stated that he gave Pupil A two books as a gift when she left the School, as well as writing a "*benign*" card, which he did for all of his tutees.

Mr Rich recalled giving a postcard to Pupil A on A level results day but submitted that he sent many similar postcards to pupils and staff and sent postcards to pupils who were similarly successful. The panel was provided with a copy of a postcard given by Mr Rich to Pupil A congratulating Pupil A.

The panel considered the evidence presented to it and found that, on the balance of probabilities, it was more likely than not that Mr Rich had given Pupil A snacks and/or gifts that he had not given to other pupils, notably a 'KitKat Chunky' during a School trip. However, the panel did not consider that the giving of the 'KitKat Chunky' to Pupil A amounted to a failure to maintain appropriate professional boundaries.

In respect of the 'gift basket', the panel considered that there was limited evidence that such a gift went beyond what was provided to other pupils who were the [REDACTED] of Mr Rich and therefore it was not necessary for the panel to consider whether such actions amounted to a failure to maintain appropriate professional boundaries.

The panel found allegation 1(b) not proven.

c. Accepting gift(s) from Pupil A for one or more of your children;

The panel considered the evidence of Pupil C who submitted that, on the last day of their trip to [REDACTED] Pupil A purchased [REDACTED] for Mr Rich's [REDACTED]. Subsequently, Pupil A sent a photograph to a group chat (of which Pupil C was a member) of Mr Rich's [REDACTED]. The panel was provided with a photograph which depicted four [REDACTED], which Pupil C understood to be a photograph of Mr Rich's [REDACTED] collection and which showed the gift purchased by Pupil A.

In her written statement, Pupil A submitted that the gift referred to by Pupil C was purchased as a group and that group gifts were also purchased for two other members of staff. Pupil A submitted that Mr Rich sent photographs of the trip by email using the School's email system, and that the photographs included one of the [REDACTED] that Mr Rich had at home.

Mr Rich denied that he accepted any gift from Pupil A for [REDACTED]. Mr Rich's evidence was that the [REDACTED] was gifted to him by a group of pupils who were on the trip, and that two other members of staff received group gifts.

The panel accepted Pupil C's evidence that a gift was purchased for Mr Rich's [REDACTED]. However, the panel did not consider that, by accepting the gift purchased on the School trip, Mr Rich's conduct amounted to a failure to maintain appropriate professional boundaries.

The panel therefore found allegation 1(c) not proven.

d. Providing Pupil A with private details of your family life;

The panel further considered the evidence of Pupil B who recalled that, on one occasion, Pupil A informed her that Mr Rich had cried and told Pupil A [REDACTED]. Pupil B stated that she informed Pupil A that this was not appropriate and that Mr Rich should have told another adult about these issues. When questioned during her oral evidence, Pupil B gave compelling evidence and specifically recalled that she found it very unusual to hear details of that nature of a teacher's private life. Pupil B recalled thinking that she did not feel that Mr Rich's [REDACTED] would want people to know this private information.

In her evidence, Pupil B confirmed that she had seen messages from Mr Rich to Pupil A relating to Mr Rich's private life.

The panel also considered the evidence of Pupil C who stated that, on one occasion on a School trip, she walked past Mr Rich and Pupil A who were sitting towards the front of the coach. Pupil C noted that Mr Rich was using his mobile phone. Pupil C's evidence was that, later, Pupil A told her in a "*bragging*" manner that Mr Rich had been showing her personal messages between him and his wife. In her oral evidence, Pupil C could not recall if she asked what the messages related to, only that Pupil A said she had been shown messages.

Pupil C further submitted that, whilst they were still pupils at the School, Pupil A sent a photograph of Mr Rich's [REDACTED] to the friendship group's group chat. The panel was provided with a copy of this photograph. It was Pupil C's evidence that either Pupil A must have been present, or alternatively must have been sent the photograph by Mr Rich.

Pupil A denied that Mr Rich had provided her with private details of his family life, stating that, when she knew Mr Rich, he appeared to be [REDACTED]. Pupil A further stated that she did not ever recall receiving pictures of Mr Rich's children, although she conceded that she had been shown some photographs of Mr Rich's children in person.

Mr Rich's evidence was that he did not sit next to Pupil A at the front of a coach and therefore could not have shown Pupil A personal messages. Mr Rich further submitted that he would not have shown personal messages in any event.

Further, Mr Rich's evidence was that he had never cried to Pupil A, that he had a [REDACTED].

In respect of the photograph of his [REDACTED], Mr Rich submitted that the photograph was from a photoshoot that was attended only by him, [REDACTED]. He denied that Pupil A was present and stated that he did not send the photograph to Pupil A from his personal mobile. Mr Rich stated that the photograph was on display in his office and on [REDACTED] Facebook page, so the only logical explanation for another person having a copy of this photograph was that someone had taken a photograph of it when in his office or had taken it from [REDACTED] Facebook page.

The panel considered the evidence presented to it and accepted the evidence of Pupil B and Pupil C, although, in respect of Pupil C's evidence relating to the photograph of Mr Rich's [REDACTED], the panel considered that there was insufficient evidence as to how the photograph of Mr Rich's [REDACTED] was obtained and made available to Pupil A. Notwithstanding this, the panel concluded that, on the balance of probabilities, it was more likely than not that Mr Rich shared private details of his family life with Pupil A.

The panel found allegation 1(d) proven.

- e. **Making one or more comments about Pupil A to other pupils which were excessively favourable.**

The panel further considered the evidence of Pupil B in which she recalled that, on Sports' Day, Mr Rich spoke to her about sending him a draft of a speech which she was due to give as [REDACTED] Pupil B informed him that she was still finalising the speech and that she would try to send him a copy in advance. In response, Mr Rich remarked that Pupil B could send the speech to Pupil A to check it for him. Pupil B recalled that it appeared as if Mr Rich was treating Pupil A as if she was a teacher who could mark or check the speech on his behalf. Pupil B further felt that the comment was unhelpful given that this related to her duties as [REDACTED] considering that Pupil A had been the only other candidate for this position and there was the potential for awkwardness to develop between Pupil A and Pupil B.

The panel further considered the evidence of Pupil C who stated that, during a School trip to [REDACTED], she recalled them discussing their time at the School and that Mr Rich stated, in the presence of Pupil A, that it was a "*miscarriage of justice*" that Pupil A did not become [REDACTED], and making a comment that they should make sure that Pupil A's [REDACTED]. In her oral evidence, Pupil C confirmed that she specifically recalled the comment as, at that time, she was very proud that Pupil B had been appointed [REDACTED], and felt that it was unfair, unjustified and unprofessional for a teacher of Mr Rich's seniority not to support Pupil B.

Pupil A's evidence was that the discussion around [REDACTED] was something that Pupil C liked to "*taunt*" her with, but that it was "*funny*". Pupil A's evidence was that she was sure Mr Rich had "*jokingly*" joined in with Pupil C and the others on the trip, but expressed her doubt that he had referred to [REDACTED] as [REDACTED] was [REDACTED].

Mr Rich's written evidence was that he did not recall these exchanges and in any event was not involved in [REDACTED].

The panel considered the evidence presented to it and noted that there was no documentary evidence presented to it in respect of the allegations. However, the panel found the evidence of Pupil B and Pupil C to be clear and compelling and therefore considered that, on the balance of probabilities, it was more likely than not that the comments referred to by Pupil B and Pupil C were made by Mr Rich.

The panel considered the comments made about Pupil A to other pupils to be excessively favourable. Further, the panel found that making such comments, and in particular the comment in respect of [REDACTED], for which Pupil A was present, amounted to a failure to maintain appropriate professional boundaries.

The panel therefore found allegation 1(e) proven.

The panel found allegations 1(a) to 1(c) not proven.

2. Shortly after Pupil A left the School, you engaged in sexual activity with her on one or more occasions.

The panel further considered the written evidence of [REDACTED].

[REDACTED] evidence was that, on 17 August 2018, Pupil A informed her [REDACTED] would be attending a [REDACTED] with Mr Rich. [REDACTED] stated that, initially, she had no issue with this. However, she later became concerned after Pupil A said to her *“James wants to know if you’re okay with it?”*.

[REDACTED] stated that she met with Mr Rich on 24 August 2018. During this meeting, [REDACTED] reported that she asked Mr Rich if there was anything inappropriate occurring between him and Pupil A, which he denied.

[REDACTED] submitted that, on 26 August 2018, she searched Pupil A’s room and found a yellow card signed as having been sent by Mr Rich (‘the Yellow Card’). The panel was provided with a photograph of this card as well as a typed transcript of the card. The card included phrases such as *“Hello gorgeous”*, stated that it was to *“mark ‘one year’”* and wished Pupil A *“luck, and lots and lots of love”* for her upcoming trip to [REDACTED]. The panel noted that the card stated *“you will be greatly missed (and not just by me, I’m sure... just mainly by me”, “don’t miss me too much (impossible!)”* and was signed off with “xxx”.

[REDACTED] evidence was that, on 30 August 2018, she received a letter [REDACTED]. The panel was provided with a copy of this letter in which the mother of Pupil B disclosed that Pupil A had confided in Pupil B that she had been in a sexual relationship with Mr Rich since the summer of 2017. [REDACTED] informed [REDACTED] that Pupil B had informed her that Pupil A’s relationship with Mr Rich became a sexual one after Mr Rich returned from supervising a School trip, [REDACTED] reported that Pupil B had informed her that Pupil A had disclosed to her that she and Mr Rich had spent several weekends together. [REDACTED] reported that she had been shown a number of messages between Pupil A and Pupil B that left her in no doubt about the truth of the information disclosed by Pupil B.

[REDACTED] submitted that, on 3 September 2018, she, Pupil A and Mr Rich attended the home of [REDACTED] to discuss the letter. [REDACTED] reported that, during this meeting, Mr Rich apologised to her for having lied to her during the discussion where he had assured her that nothing inappropriate had been occurring between him and Pupil A. In her written statement dated 10 November 2019, [REDACTED] stated that, during this meeting, both Pupil A and Mr Rich acknowledged that they were in a sexual relationship with each other that had begun in the September following Pupil A’s departure from the School.

[REDACTED] evidence was that she did not remember the exact words that were used when describing the relationship, but that it was either a “*physical relationship*” or a “*sexual relationship*”. It was Mother A’s evidence in her statement dated [REDACTED] that there was no room for doubt that Pupil A and Mr Rich had been engaged in a sexual relationship, and that neither Pupil A nor Mr Rich sought to deny it.

[REDACTED] stated that the meeting ended by Mr Rich confirming that he would contact [REDACTED] to inform him of the relationship between Mr Rich and Pupil A. However, [REDACTED] evidence was that, by 10 September 2018, neither [REDACTED] nor [REDACTED] had been contacted by the School. [REDACTED] then contacted [REDACTED] and arranged to meet him on 15 September 2018. [REDACTED] reported that, during this meeting, she informed [REDACTED] that Mr Rich and Pupil A had confirmed that they were in a sexual relationship, and that [REDACTED] appeared “*completely shocked*”.

In her evidence, [REDACTED] confirmed that, since 10 September 2018, she had not been in contact with Mr Rich. However, she confirmed that, on 4 October 2018, she discovered another card sent to [REDACTED] from Mr Rich. It was a home-made card fashioned like a crossword with intersecting words. It was titled “*Our Story So Far*” and referenced [REDACTED]. [REDACTED] stated that she believed that some of these places were places that Mr Rich and Pupil A had gone to while [REDACTED] was a pupil at the School.

The panel noted a further statement submitted to the TRA dated 23 June 2020 which was made jointly by Mother A and Father A. In this statement, Mother A and Father A stated that they did not have any evidence that a sexual relationship took place between Pupil A and Mr Rich, and that whilst it had been stated that this had been acknowledged by Pupil A and Mr Rich in 2018, they could now not be sure of the words actually used. The statement further indicated that they were happy to acknowledge that the Yellow Card was apparently a card to mark the completion of one year at university by Pupil A.

The panel noted that the evidence of [REDACTED] changed from her initial formal statement in 2019 to the supplemental statement in 2020. The panel understood that, as [REDACTED] had not attended the hearing to give oral evidence, [REDACTED] evidence was hearsay evidence and therefore the panel attached appropriate weight to it. However, the panel was of the view that the statement of [REDACTED] dated 10 November 2019 was more likely to be accurate given that it was taken contemporaneously and aligned with other evidence before the panel. The panel noted that, in any event, at no stage did [REDACTED] expressly state that Pupil A had denied that her relationship with Mr Rich was sexual.

The panel considered the written evidence of [REDACTED].

In a written statement provided to the TRA dated 5 September 2019, Father A stated that, on or around 2 September 2018, Pupil A confirmed to him and Mother A that she was in a relationship with Mr Rich. Father A stated that Pupil A was adamant that the relationship did not begin until Pupil A left School, and that Pupil A maintained then and since that it was a consenting relationship.

[REDACTED] confirmed that he and [REDACTED] met with Pupil A and Mr Rich on 3 September 2018.

The panel was also provided with a copy of the letter sent by [REDACTED] and [REDACTED] to [REDACTED] dated 16 September 2018. In this letter, [REDACTED] and [REDACTED] stated that it had come to light that Pupil A had been in a relationship with Mr Rich. The letter stated that Pupil A and Mr Rich had been meeting outside school and that the relationship had become a sexual one during the past year.

The panel was further provided with a copy of a letter dated 9 October 2018 which appeared to be an addendum to the letter sent on 16 September 2018. In this letter, [REDACTED] and [REDACTED] stated again that Pupil A and Mr Rich confirmed that a relationship started after Pupil A had left School.

In addition to these letters, the panel was provided with an email sent by [REDACTED] to the TRA on 21 November 2019. In this letter, [REDACTED] stated that he wished to clarify that his statement that Pupil A and Mr Rich confirmed a sexual relationship was based on his and [REDACTED] interpretation of Pupil A and Mr Rich acknowledging a romantic and physical affair. [REDACTED] stated that he did not remember the exact words used, and that the word sexual was not necessarily used by Pupil A or Mr Rich in that discussion.

The panel noted that the evidence of [REDACTED] changed from his initial formal statement in 2019 to the supplemental statement in 2020. The panel understood that, as [REDACTED] had not attended the hearing to give oral evidence, this evidence was hearsay evidence and therefore the panel attached appropriate weight to it. However, the panel was of the view that the statement of [REDACTED] dated 10 November 2019 was more likely to be accurate given that, as with the statement of [REDACTED], it was taken contemporaneously and aligned with other evidence before the panel. The panel noted that, as with [REDACTED] and in any event, at no stage did [REDACTED] expressly state that Pupil A had denied that her relationship with Mr Rich was sexual.

The panel further considered the evidence of Pupil B. The panel was provided with screenshots of messages that Pupil B stated were sent to her by Pupil A on social media on 1 September 2017. These messages contained a photograph of what appeared to be Mr Rich accompanied by a message from Pupil A saying "*James says hi*". Pupil B asked "*is this real time footage*" and Pupil A responds with "*yes*".

Pupil B later sent a message saying *"I didn't want to ask you earlier with 'James' in your presence but was that a coffee date lol"*, to which Pupil A responded *"Yeah it was"*, with two emojis. In her oral evidence, Pupil B described the first emoji as being a symbol for being embarrassed. Pupil A then stated *"I think he'll always be 'James'"*.

Pupil B's evidence was that she interpreted the messages as Pupil A indicating that she and Mr Rich were on a *"coffee date"*.

Pupil B further recalled that, during a reunion on [REDACTED] 2017/2018 at the home of [REDACTED] Pupil A revealed that she had a *"boyfriend"*. Pupil A refused to disclose further information, including the new boyfriend's name.

Pupil B recalled that, on 24 January 2018, Pupil A messaged Pupil B on Facebook messenger to see her as she was *"having a complete breakdown"*. The panel was provided with a screenshot of this message.

Pupil B recalled that she met up with Pupil A who informed her that she had been having a sexual and romantic relationship with Mr Rich. Pupil A said to Pupil B that the relationship had commenced after he returned from the [REDACTED]. Pupil B's evidence was that this [REDACTED] took place around July 2017.

Pupil B stated that she was informed by Pupil A that she and Mr Rich had exchanged nude photographs and engaged in sexual activity. Pupil B recalled Pupil A to be explicit and clear. Pupil B's evidence was that she was in no doubt the relationship was sexual. Pupil B stated that Pupil A informed her that Mr Rich had been *"sexting"* her during the 2017 [REDACTED], and that the first time she had intercourse with Mr Rich was in her bed at [REDACTED]. Pupil B recalled that Pupil A informed her that she decided to tell Pupil B as she understood that Mr Rich's [REDACTED] was becoming suspicious. Pupil A thought this may cause Mr Rich to break off the relationship, which was very upsetting to Pupil A.

During her oral evidence, Pupil B stated that she specifically recalled the conversation in January 2018 in which Pupil A disclosed the nature of the sexual relationship between herself and Mr Rich. Pupil B's evidence was that the tone of the conversation was one of a friend disclosing details of relations with a new partner. Pupil B recalled that Pupil A had shared intimate details with her, including explicit details of the sexual activity that had taken place. Pupil B's recollection was that the relationship was clearly consensual.

Pupil B recalled specifically asking Pupil A about when the relationship started, as she wanted to confirm that the physical relationship did not start while Pupil A was at School. Pupil B recalled Pupil A clearly stating that it had commenced in the summer of 2017 as Mr Rich had been sending messages to Pupil A whilst he was away on the [REDACTED] trip.

Pupil B stated that Pupil A appeared to see the relationship as a committed one, and that it was not a *“fling”* or something *“transient”*.

The panel was further provided with copies of messages exchanged between Pupil A and Pupil B, which were sent between January and July 2018.

The panel was provided with a copy of a message sent by Pupil A on or around 14 February 2018 which referred to *“top top secret”* information, namely that Mr Rich would be promoted to Acting Head of the School. The panel noted a written summary prepared by [REDACTED] of Leicester Grammar Junior School, dated 24 October 2018 which confirmed that information relating to Mr Rich’s promotion to Acting Head was not shared with the School’s senior management team until 19 February 2018, and the wider staff until 23 February 2018.

The panel noted further messages which made reference, in particular, to Mr Rich’s birthday, Mr Rich trying to call Pupil A during lectures and to Pupil A needing to take pictures at a social event or *“[REDACTED] and James will kill me”*. A further message from Pupil A stated *“I’ll feel properly like a deep sea fisherman’s wife next year as headship steals my man.”*

The panel considered that all of these messages strongly indicated a relationship between Mr Rich and Pupil A which extended beyond a cordial friendship.

The panel also noted messages between Pupil A and Pupil B discussing whether [REDACTED] knew about the relationship with Mr Rich, to which Pupil A responded *“...she strongly suspects but she doesn’t suspect the truth, just that I love him, that he knows and that I’m gonna get my heart broken”*.

Pupil B’s evidence was that, on one occasion, when she was in Pupil A’s room at University, she saw gifts and cards that Mr Rich had sent to Pupil A, including a lamp in the shape of a cloud. In her oral evidence, Pupil B confirmed that she believed that Mr Rich had given Pupil A these gifts as, in respect of the cards, she recalled Mr Rich’s distinctive handwriting. Pupil B’s evidence was that, in respect of the lamp, it was a lamp that you could place a handwritten message in. Pupil B recalled that there was a message written in Mr Rich’s handwriting that referred to *“love”*.

Pupil B’s evidence was that she decided to keep Pupil A’s confidence until after their exams, but, upon returning home from university after her exams in summer 2018, she disclosed to [REDACTED] the information she had been given by Pupil A. Pupil B stated that her and [REDACTED] *“agonised”* about the most sensitive way of disclosing the information and decided to write to Pupil A’s [REDACTED].

Pupil B stated that, in October 2018, she received approximately 10 telephone calls from Pupil A. Pupil B’s evidence was that Pupil A was distressed that Mr Rich was being investigated and that Pupil A asked her not to share any messages.

Pupil B further recalled a chance “run in” she had with Pupil A a few weeks after she was contacted by Pupil A regarding the investigation into Mr Rich. Pupil B stated that she had heard from the School that Pupil A had represented the relationship as “*platonic*” or one where Pupil A and Mr Rich had only kissed once. Pupil B’s evidence was that Pupil A had given her a different account of the relationship and that she challenged Pupil A. Pupil B recalled Pupil A being preoccupied with whether people would judge her for breaking up a marriage, but that Pupil A reassured her that she would tell the truth and amend her statement to the School.

The panel was provided with screenshots between Pupil A and Pupil B in which Pupil A asked Pupil B not to “*hand over*” any screenshots. Pupil B encouraged Pupil A to “*tell the truth and move on*”. Pupil A stated she had told the truth but that “*he hasn’t*”, and Pupil B asked “*what is he saying?*”. Pupil A responded “*during my statement they said he’d denied everything, but I’d already agreed with my parents to confess so I guess I dropped him in it*”.

In this exchange, Pupil B wrote “*well he will clearly try and deny everything to protect his career*” and discussed her future involvement. Pupil A responded “*you can be confident in telling the truth*”. Pupil B wrote in a further message “*I stick by everything written in the letter, because it’s all based on what you told me – in terms of this relationship starting after the [REDACTED], and continuing for the whole year. I’m glad your parents have supported you in telling the truth. If I am contacted, I will tell the truth and I would expect to be believed – I have no interest in telling anything other than the truth*”. Pupil A responded to say “*Yeah, I know you have no reason to lie*”.

Pupil B went on to send a message which said “*Okay, just one more thing – you’re not denying the relationship is sexual?... Sorry was*” to which Pupil A responded that, in her statement, she used the word physical and was honest about when it started, and that she would provide the details to the TRA if she “*absolutely had to*”. Pupil A went further to state “*he’s denied everything, to my knowledge, which I wish he hadn’t*”. A further message stated “*The school’s focus is on when I was at school so details weren’t necessary and my statement confirming a physical relationship after I left was sufficient for them*”.

Pupil B then responded to Pupil A saying that she didn’t think anyone would expect Pupil A to be explicit unless she had to, but that she was “*just worried you might have now denied it was sexual to protect him, when it’s clear his only interest is protecting himself*”. Pupil A responded that, although she wanted to protect him, she would need to make herself a “*credible witness*” and stated “*I have to be honest about what happened after I left in order for them to believe that nothing happened before I did*”. Pupil A further stated “*I can’t lie that I still want to protect him, but my family know the truth because they searched my room and are making sure I stick to it, though I’m still telling myself it’s best for him, else people would believe it started earlier*”.

The panel considered the witness statement and oral evidence of [REDACTED], who was instructed by the School to investigate the allegations against Mr Rich. [REDACTED] evidence was that, during the investigation, Mr Rich admitted that he had kissed Pupil A on one occasion.

The panel was provided with a copy of a note of a telephone conversation between Pupil A and [REDACTED], as recorded by [REDACTED], in which it was stated that Pupil A had confirmed that she and Mr Rich were “*dating*”. During this conversation, it was noted that Pupil A said she had told her parents that the relationship was romantic, that she and Mr Rich had kissed, but that it was not a sexual relationship. The panel noted that Pupil A was recorded to have stated that the relationship became romantic in the February or March of 2018 and that she had met up with Mr Rich on the understanding that this was the “*new dynamic*”. The note stated that Pupil A was conflicted about the fact that Mr Rich was [REDACTED]. With the summer approaching, they “*made the decision not to let it move forward*”.

The panel was provided with a copy of an email dated 5 October 2018 sent to [REDACTED] in which Pupil A stated she wished to ensure that the key messages of the conversation between herself and [REDACTED] were clear; that she did not engage in a sexual relationship with Mr Rich but that a kiss and some “*undisclosed meetings*” occurred after she had left the School.

The panel was further provided with a copy of a statement from Mr Rich dated 13 December 2018. The statement confirmed that Mr Rich and Pupil A had kissed on 17 March 2018, and that he accepted this was “*unwise*”. Mr Rich stated that this was the only occasion on which they had kissed, and that he denied engaging in any other activity with Pupil A that could be considered sexual in nature. Mr Rich accepted that he had made some “*lapses in judgment*” in respect of his conduct in relation to Pupil A. Mr Rich further accepted that it was “*unwise*” for the kissing incident to have taken place, and that it was inappropriate to use some of the words contained in the card he sent to Pupil A, which the panel believed to be the Yellow Card. Mr Rich stated that he and Pupil A “*decided to discontinue any kind of relationship a couple of months before the complaint was made*”.

The panel considered the written evidence of Pupil A dated 20 November 2019 and 17 November 2022. The panel noted that Pupil A was not called to give evidence at the hearing and therefore Pupil A’s evidence was to be treated as hearsay evidence. The panel attached limited weight to Pupil A’s written evidence given that, in the panel’s opinion, Pupil A had motive to misrepresent matters, namely the protection of Mr Rich as was suggested in her messages to Pupil B.

The panel also noted that Pupil A had changed her account from that which was initially disclosed to Pupil B and Pupil A’s [REDACTED] The panel considered that Mr Rich may

have influenced Pupil A to do so. The panel therefore relied primarily on the contemporaneous documentary evidence available to it.

Pupil A denied engaging in a sexual relationship with Mr Rich.

It was Pupil A's evidence that, after [REDACTED] in 2017, Mr Rich telephoned her home to discuss submitting a paper for reassessment. It was while liaising with Mr Rich about the reassessment that Pupil A used Mr Rich's business card which contained Mr Rich's personal mobile number. Pupil A recalled that, when the paper was returned, she met Mr Rich in her village at a coffee shop with outdoor tables to go through the paper. The panel understood this to be the "*coffee date*" referred to in the evidence of Pupil B.

Pupil A's evidence was that, during this meeting, [REDACTED] and [REDACTED] drove past and waved as they knew where she was. Pupil A stated that the use of the phrase "*coffee date*" was a very general term and not romantic.

Pupil A submitted that, on 27 October 2018, Mr Rich was in [REDACTED] for a work event and [REDACTED] for dinner. Pupil A's evidence was that this meeting took place in front of a hall full of her peers and it was not "*clandestine*".

Pupil A's evidence was that [REDACTED] saw Mr Rich on two other occasions that year; once in [REDACTED] and once in [REDACTED]. Pupil A recalled that she also saw Mr Rich at the School [REDACTED] and the [REDACTED], but that the conversation was not extensive as she was speaking with other alumni.

Pupil A stated that the last time she saw Mr Rich before the allegations were made was when they [REDACTED]. Pupil A submitted that her parents were aware of this, that Pupil A was picked up from her home and that they saw several people from the School community whilst there.

Pupil A's evidence was that, in the summer of 2018, she had been teaching in [REDACTED] and on holiday abroad. When she returned from her holiday, [REDACTED] informed her that they had received a letter making accusations that she had been "*seeing*" Mr Rich. Pupil A submitted that they gave no detail but that Pupil A guessed the letter was from Pupil B. Pupil A submitted that it was clear that the letter was a "*threat*" to "*expose*" Mr Rich for the behaviour.

The panel did not accept Pupil A's evidence that the letter was a "*threat*", noting that the letter, a copy of which was available to the panel, contained no threatening or intimidating language.

Pupil A submitted that she telephoned Mr Rich to inform him that an accusation had been made, and that, in September 2018, Mr Rich met with her and [REDACTED] to discuss the allegation. Pupil A stated that at no stage in this meeting did either of [REDACTED] say that Pupil A and Mr Rich had been accused of having a sexual relationship. It was

Pupil A's evidence that she assumed that it related to being seen at the [REDACTED], but she dismissed this as "*relatively stupid*" and "*reflective of the small and gossipy community*" that she lived in. Pupil A stated that, had she been shown the letter or told that it alleged a sexual or physical relationship, she would have denied it because it was "*completely false*".

Pupil A's evidence was that, during the meeting, it was agreed that Mr Rich would discuss the matter with [REDACTED]. Pupil A further submitted that it was agreed that [REDACTED] would meet with [REDACTED] to discuss the issue.

Pupil A submitted that she was contacted by the School in October 2018. Pupil A stated that, as she had not been shown the letter from [REDACTED] before, she was not in a position to comment on the accusations prior to this and therefore could not have confirmed them. Pupil A's position was that the question of her relationship with Mr Rich being physical or sexual was not put to her either at her initial meeting with [REDACTED] or at any time between that meeting and the contact with the School in October 2018.

In respect of the messages between Pupil A and Pupil B, Pupil A's evidence is that the wording of these messages was misinterpreted. For example, in respect of the "*deep sea fisherman*" comment, Pupil A admitted that it did make her sound "*more familiar*" than she remembered but submitted that it merely reflected that she presumed headship would mean she would not see Mr Rich anymore.

Pupil A submitted that, in respect of some of the messages between herself and Pupil B, she believed that the messages may have been edited. The panel did not accept this explanation as credible. The panel had heard oral evidence from Pupil B and found Pupil B to be a reliable and credible witness who had no motive to misrepresent matters.

Pupil A further submitted that, in respect of the evidence of [REDACTED], she did not freely admit that she had kissed Mr Rich, and that this had been misrepresented. The panel did not consider that this submission was substantiated considering the evidence presented to it.

The panel further considered the written evidence and submissions of Mr Rich.

Mr Rich submitted that, during his meeting with [REDACTED] of Pupil A on 3 September 2018, he was not shown the letter from [REDACTED]. He further stated that he was not asked if he and Pupil A were in a sexual relationship and submitted that the parents of Pupil A did not ask about the nature of his relationship with Pupil A at all.

Mr Rich submitted that, throughout his meeting with the parents of Pupil A, it was clear that he and Pupil A were describing a "*wholly platonic relationship*". He submitted that he did not subsequently discuss with [REDACTED] the allegation that his friendship with Pupil A was a sexual relationship because he had not seen [REDACTED] letter and he was unaware that this was the accusation. Mr Rich denied using the term "*physical*" or

“*sexual*” to describe his relationship with Pupil A. Further, Mr Rich submitted that it was not possible that there was “*no room for doubt*” as to the sexual relationship between himself and Pupil A as intimated in the letter sent by [REDACTED] of Pupil A to the School.

Mr Rich suggested that, having received [REDACTED] letter, Pupil A’s [REDACTED] intimated that they felt “*slightly threatened*” and therefore felt that the safest action to take was to pass the matter to the School.

In Mr Rich’s written evidence, he submitted that he had never engaged in any form of sexual activity with Pupil A. He further submitted that the extent of his physical contact with Pupil A was a “*parting peck on the cheek*” after he had lunch with Pupil A on 17 March 2018. The panel found this to be at odds with elements of the statement dated 13 December 2018 which Mr Rich provided as part of the School’s investigation, evidence which was taken contemporaneously. The panel also found this to be at odds with the written evidence of Pupil A who stated in her written evidence that she and Mr Rich had parted with “*quick pecks on the cheek*” at a lunch in February 2018.

Mr Rich submitted that he met Pupil A socially on a small number of occasions. Mr Rich’s evidence was that he met Pupil A [REDACTED] at Pupil A’s university. Mr Rich stated that he then met Pupil A on five further occasions, namely when Pupil A and [REDACTED] attended a [REDACTED] around the Christmas Period in 2017, in February 2018 when he met Pupil A for lunch, during the Easter break and in the summer of 2018.

The panel considered Mr Rich’s written submissions and evidence in respect of specific dates in which Mr Rich alleged that he could not have been with Pupil A due to existing commitments. However, the panel did not consider that this was relevant to their determination as to whether the allegation was proven given the contemporaneous evidence available to it and noting that the allegation did not refer to a specific date. The panel did not consider Mr Rich’s inability to have been present with Pupil A on any specific dates to be evidence for or against the allegation.

In respect of the Yellow Card, Mr Rich submitted that this was sent in June 2018 to mark the end of Pupil A’s first year at university and did not refer to the start of any relationship. Mr Rich accepted that the use of the words “*hello gorgeous*” and others in the card was inappropriate and unwise but stated that this greeting in particular related to a running joke because [REDACTED] would habitually use this as a greeting.

In respect of the crossword-style card, Mr Rich submitted that this was a joke between himself and Pupil A as they both enjoyed crossword puzzles. He denied that the words within the crossword were places that they met and submitted that the card referred to a continuing “*friendly competition*” between himself and Pupil A. The panel considered the written evidence of Pupil A and Mr Rich in relation to the crossword which confirmed that

the crossword related to shared "jokes" between them. The panel concluded that this card was further evidence of a close relationship between Pupil A and Mr Rich.

Mr Rich described his relationship with Pupil A once Pupil A had left the School as platonic and appropriate. Mr Rich submitted that the statement by the School that he and Pupil A had kissed was an *"entirely inaccurate statement propagated by the school"*.

Whilst the panel noted that both Pupil A and Mr Rich denied that sexual activity took place, the panel considered the evidence presented to it and concluded that, on the balance of probabilities, Mr Rich and Pupil A had engaged in sexual activity on one or more occasions. The panel took note of the documentary evidence available to it, and in particular the screenshots of the messages between Pupil A and Pupil B which indicated a relationship that was beyond that of a platonic friendship and supported Pupil B's oral evidence. The panel further noted the messages between Pupil A and Pupil B which were exchanged after the initial disclosure by Pupil B which strongly indicated that Mr Rich's denial of the relationship to the School was not truthful, and in particular noted that at no stage during the exchange of these messages had Pupil A denied the sexual nature of the relationship. In addition, and as set out above, the panel accepted the evidence of Pupil B as reliable and compelling and found that there was no motive on the part of Pupil B to misrepresent matters.

The panel found allegation 2 proven.

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

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"*. It also noted Haris, in which the High Court indicated that the criteria in Basson set the bar too high. Foster J stated:

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

"Of course, there are significant differences in the context and the analogy is not exact, but it does seem to me that pleading 'sexual motivation' is unhelpful. Similarly to look for 'sexual gratification' may be misleading or overcomplicating. It is irrelevant to the actions which the GMC would wish to proscribe whether or not the perpetrator was sexually 'gratified' at all – whether before, after or during the act in question. Gratification, as with

“pursuit of a relationship” are, pace the analysis of Mostyn J in Basson, not helpful in my judgement in promoting the public interests at stake here. These criteria set the bar too high and I respectfully disagree that they represent the law”.

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

The panel considered the guidance in *Haris* and the evidence presented to it. The panel heard evidence that Pupil A was an exceptionally gifted student with a particular interest in [REDACTED]. The panel also noted the written statement of [REDACTED] in which [REDACTED] confirmed that she had asked Mr Rich to keep a “close eye” on Pupil A.

The panel considered that, in the circumstances, it was more likely than not that the conduct as found proven at allegations 1(d) and 1(e) resulted from Pupil A and Mr Rich’s academic relationship of teacher and [REDACTED]. The panel therefore found that there was insufficient evidence that Mr Rich’s conduct as found proven at allegations 1(d) and 1(e) was sexually motivated.

The panel therefore found allegation 3 not proven.

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

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

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

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

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

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

In respect of allegations 1(d) and 1(e), the panel considered that Mr Rich's conduct, while misguided and unprofessional, was not sufficiently serious as to amount to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

However, in respect of the conduct as found proven at allegation 2, the panel was satisfied that the conduct amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

Whilst the panel noted that the conduct as found proven at allegation 2 related to conduct which took place after Pupil A left the School, the panel was concerned at the development of a sexual relationship between a pupil and a teacher where the teacher had been responsible for the pupil both in relation to his role as [REDACTED] and in light of a request by [REDACTED] to keep a "close eye" on the pupil in question. The panel noted that the evidence indicated the relationship had developed within months of Pupil A leaving the School and this was a relevant factor in reaching this decision.

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

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

Accordingly, the panel was satisfied that Mr Rich 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.

In respect of allegations 1(d) and 1(e), the panel did not consider that the misconduct as found proven amounted to conduct which was sufficiently serious as to amount to conduct which may bring the teaching profession into disrepute.

However, the panel considered that the finding of misconduct at allegation 2 was 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 fact that the

relationship which resulted in sexual activity appeared to have developed so soon after Pupil A leaving the School, and appeared to have developed from the close academic relationship which was established during Pupil A's time at the School, was a relevant factor in reaching this decision.

The panel therefore found that Mr Rich's actions as found proven in respect of allegation 2 constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(d), 1(e) and 2 proved, the panel further found that Mr Rich's conduct as found proven at allegation 2 amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

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

In the light of the panel's findings against Mr Rich, which involved engaging in sexual activity with Pupil A shortly after she had left the School, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and 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 Rich was not treated with the utmost seriousness when regulating the conduct of the profession.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Rich. 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 Rich. 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;
- 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; and
- 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.

There was no evidence that Mr Rich's actions were not deliberate.

There was no evidence to suggest that Mr Rich was acting under extreme duress.

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

Mr Rich provided written character references from the following individuals:

- REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

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

- *“It was clear to his pupils that he worked very hard for their sake and that he did things in the right way.”*
- *“He was open, honest and professional in his dealings with colleagues and pupils, and his moral compass points in the right direction at all times.”*
- *“James is a kind, conscientious, industrious man who sets high standards for both himself and others.”*
- *“My children ... still talk about Mr Rich and his superb, inspirational lessons.”*
- *“He was a meticulous organiser, a particularly effective teacher motivating his students with his love of his subject and keen, boyish sense of humour and quickly became both a popular and respected member of staff.”*
- *“He always gave freely of his time involving himself wholeheartedly in a range of extracurricular activities.”*
- *“He is unfailingly loyal and caring, and spent his teaching career seeking the betterment of those around him and his school, for the benefit of the pupils in his care.”*
- *“James certainly had high standards and expectations of his pupils and colleagues, an instinct that was always motivated by wanting the best for his pupils and his schools.”*
- *“James was a talented teacher, who had high expectations of his students and always modelled those same high standards of behaviour and dedication in his own behaviour.”*
- *“James would always ensure that he was present to support whatever event was being held at his schools to support the students.”*

- *“James was the model teacher, bringing lessons and learning to life with a keen eye for detail and passion for his subjects.”*
- *“James was always someone that children wanted to teach them due to his expert knowledge and high but fair standards.”*

The panel was also provided with copies of cards from parents, colleagues and pupils which contained positive comments. The panel noted the following in particular:

- *“Thank you for teaching me [REDACTED] for the past two years. Thanks to you I now have such a better understanding of the world around me and how it has got to this point.”*
- *“It has truly been an honour to have been in your [REDACTED] these past two years. My sincere thanks for all your support, patience and excellent teaching.”*
- *“Thank you so much for everything you have helped me with..., for always caring and for all the advice.”*

The panel noted the evidence of Pupil B in which Pupil B stated that, insofar as it is relevant, she found Mr Rich to be a very good teacher.

The panel also noted the evidence of Pupil C in which Pupil C stated that she found Mr Rich to be a good teacher who was passionate and knowledgeable about his subject.

The panel noted the written submissions of Mr Rich, where, in respect of his teaching, Mr Rich described his challenges at the School, stating that the challenges were threefold; he considered that the staff were less committed to their jobs and extra-curricular activities, the then [REDACTED] was *“eager to promote himself”* and frequently absent from the School, and that the parents at the School were a *“struggle”*. Mr Rich recalled little support from the School and described the parents of the School as often feeling that they *“knew better than the teachers and the school, and were keen to threaten in a passive aggressive (and sometimes just an aggressive) manner”*. Notwithstanding this, Mr Rich recalled a number of successes during his time at the School, describing himself as *“marshalling”* the School to some of its *“best ever”* public exam results, and improving the School’s admissions and marketing. Mr Rich stated that he was *“invariably”* the first person on site and the last person to leave every evening, meaning that *“even those who disliked me regarded me as a hard-working and committed”*. Mr Rich further recalled that, after having taken the role of Acting Head, a colleague described the period as *“the happiest and best-coordinated start to a school year in memory”*.

Mr Rich further submitted that part of his motivation in teaching was that he wished to do what he could to improve access to independent schools for lower income families. Mr Rich stated that, during his time at a previous school, he *“threw himself into everything”*. Mr Rich referred to his involvement in sports teams, running lunchtime clubs and

participating in overseas and domestic trips, as well as founding an award-winning History Magazine.

The panel acknowledged that the evidence submitted to it indicated that Mr Rich appeared to be a successful and committed educator who was passionate about teaching and his subject, with high standards in both his personal and professional conduct. However, notwithstanding the written submissions of Mr Rich and the positive comments regarding Mr Rich, the panel did not consider that the evidence demonstrated that he has contributed significantly to the education sector.

The panel also considered the extent to which Mr Rich had shown insight and remorse. The panel considered Mr Rich's submissions but, after careful consideration, found no evidence that Mr Rich showed insight or remorse for his actions. The panel was particularly concerned that Mr Rich attempted to discredit each of the TRA's witnesses, in the case of the pupils criticising them both personally and academically, in a way which in the panel's view was without merit. The panel further considered that Mr Rich showed little understanding of the potential consequences of his actions on others involved.

Mr Rich submitted that what he considered to be false allegations and charges had caused "*untold damage*" to him as a person and affected every area of his life. Mr Rich stated that [REDACTED]. Mr Rich recalled periods of [REDACTED].

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Rich 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 Rich. The serious nature of the conduct and the fact that it involved sexual activity with a former pupil shortly after the pupil had left the School was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel did not find any of these behaviours to be relevant.

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 did not find any of these behaviours to be relevant.

Whilst the panel considered Mr Rich's conduct to be sufficiently serious to require prohibition, the panel noted that Pupil A was over the age of 18 when the relationship became sexual, and that the relationship appeared to be consensual. The panel did not consider there was a particular risk of repetition but found that Mr Rich had not yet developed appropriate insight as to the potential consequences of his actions.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a two-year review period. The panel considered that a period of two years would give Mr Rich the opportunity to demonstrate insight into and remorse for his actions and conduct.

Decision and reasons on behalf of the Secretary of State

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

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

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

In this case, the panel has also found some of the allegations not proven, and/or found that some allegations do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by

- treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach
- 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 Rich fell significantly short of the standards expected of the profession.

The findings of misconduct are serious as they include a finding of sexual activity with a recent former 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 Rich, 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 Rich, which involved engaging in sexual activity with Pupil A shortly after she had left the School, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and 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, "The panel also considered the extent to which Mr Rich had shown insight and remorse. The panel considered Mr Rich's submissions but, after careful consideration, found no evidence that Mr Rich showed insight or remorse for his actions. The panel was particularly concerned that Mr Rich attempted to discredit each of the TRA's witnesses, in the case of the pupils criticising them both personally and academically, in a way which in the panel's view was without merit. The panel further considered that Mr Rich showed little understanding of the potential consequences of his

actions on others involved.” In my judgement, the lack of insight and remorse demonstrated by Mr Rich 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 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, “However, the panel considered that the finding of misconduct at allegation 2 was 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.” I am particularly mindful of the panel’s finding that Mr Rich engaged in a sexual relationship with a recent former pupil with whom he had had a close academic relationship and the impact that such a finding could have 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 Rich himself. The panel records a number of testimonials from colleagues and pupils attesting to his abilities and commitment as an educator. However, the panel qualifies this by observing that “...notwithstanding the written submissions of Mr Rich and the positive comments regarding Mr Rich, the panel did not consider that the evidence demonstrated that he has contributed significantly to the education sector.” The panel also record evidence of the personal impact that the allegations against him have had on Mr Rich.

A prohibition order would prevent Mr Rich 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 as recorded above, as well as the serious nature of the misconduct found.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Rich 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 a 2 year review period.

In doing so, the panel has made reference to the Advice which indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel did not find any of these behaviours to be relevant.

The panel also notes that the Advice indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel did not find any of these behaviours to be relevant.

I have considered the panel's comments "Whilst the panel considered Mr Rich's conduct to be sufficiently serious to require prohibition, the panel noted that Pupil A was over the age of 18 when the relationship became sexual, and that the relationship appeared to be consensual. The panel did not consider there was a particular risk of repetition but found that Mr Rich had not yet developed appropriate insight as to the potential consequences of his actions."

The panel go on to conclude that "...the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a 2 year review period. The panel considered that a period of 2 years would give Mr Rich the opportunity to demonstrate insight into and remorse for his actions and conduct."

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession.

I have considered whether a 2 year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In my judgment, and balancing the seriousness of the misconduct found and the lack of evidence of insight and remorse with the panel's assessment that there is not a particular risk of Mr Rich repeating the misconduct found in this case, allowing a 2 year review period is proportionate and sufficient to achieve the aim of maintaining public confidence in the profession.

This means that Mr James Rich is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or

children's home in England. He may apply for the prohibition order to be set aside, but not until 2 years from the date of this order at the earliest, 18 January 2026. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Rich remains prohibited from teaching indefinitely.

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

Mr Rich 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 'M. Cavey', with a long horizontal stroke extending to the right.

Decision maker: Marc Cavey

Date: 18 January 2024

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