



Teaching
Regulation
Agency

Mr Simon Black: Professional conduct panel outcome

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

March 2024

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

Teacher: Mr Simon Black

Teacher ref number: 8238305

Teacher date of birth: 26 September 1961

TRA reference: 18428

Date of determination: 8 March 2024

Former employer: The Bridge School, Ipswich

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 20 November 2023 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Simon Black.

The panel members were Ms Rachel Kruger (teacher panellist – in the chair), Ms Aruna Sharma (teacher panellist) and Mr Paul Hawkins (lay panellist).

The legal adviser to the panel was Miss Francesca Poole of Eversheds Sutherland (International) LLP.

The presenting officer for the TRA was Ms Kiera Riddy of Browne Jacobson LLP.

Mr Black was present and was represented by Ms Megan Fletcher-Smith of Cornwall Street Chambers.

Pursuant to a case management decision dated 27 October 2021, the case of Mr Simon Black was joint with the case of Teacher A.

Teacher A was present and was represented by Ms Melanie Williamson of St Phillips Chambers.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation(s) set out in the notice of hearing dated 13 September 2023.

It was alleged that Mr Black was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Deputy Headteacher and/or Acting Headteacher at The Bridge School:

1. Mr Black engaged in inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who he knew or ought to have known was vulnerable, by:
 - a. 'rolling' and/or pushing him from a corridor to a soft play room; and/or
 - b. locking him and/or instructing a member of staff to lock him in the soft play room.
2. Mr Black disregarded an instruction from the Local Authority in or around September 2017 that the use of locks on doors in the School was inappropriate and to remove them.

Mr Black denied the allegations. Mr Black denied that he was guilty of unacceptable professional conduct or conduct that may bring the profession into disrepute.

Preliminary applications

Document applications

The panel considered an application from the Presenting officer to admit three classes of document:

1. Responses provided by Mr Black to the notice of hearing dated 18 March 2020;
2. Investigation interview notes of Witness A and Witness B (and accompanying audit report); and
3. The witness statement of Individual C (which was already within the bundle, but an application was made to include the statement as hearsay evidence).

Teacher A's representative applied to admit two documents:

4. A witness statement of Witness I
5. A disputed bundle of unredacted documents

Mr Black's representative also made two applications:

6. A joint application with Teacher A's representative to admit those parts of the disputed bundle which relate to Mr Black; and

7. An application to remove hearsay evidence within the bundle as specified by page number in the application

The panel noted that documents 1, 2 and 4 were not served in accordance with the requirements of paragraph 4.20 of the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 procedures (“the Procedures”). Therefore, the panel was required to decide whether the evidence should be admitted under paragraph 4.25 of the 2018 procedures.

The panel noted that there were no objections to the inclusion of documents 1, 2 and 4. The panel considered that the additional evidence was relevant. Accordingly, the panel decided to admit the evidence.

In relation to the applications by the Presenting Officer to include hearsay evidence within the bundle (i.e. document 3) and the application by Mr Black’s representative to remove hearsay in the bundle (document 7), the central question for the panel was whether it was fair in the circumstances to allow evidence to be put forward by the Presenting Officer without the opportunity for the witness to be cross-examined by the teacher. In respect of document 3, the panel took account of the efforts made to secure the attendance of the witness and concluded this had not been possible as the witness was not willing to attend. The panel had regard to the seriousness of the allegations in this case, and that it is open to the panel to recommend prohibition in this case if the allegations are found proven.

The panel also considered the importance of the evidence and whether it constituted a critical part of the evidence against the teacher. The panel noted that the evidence was of a key witness to a central allegation in this case, however the panel noted that there was no objection in principle to this application by either teacher given the content of the witness statement of Individual C. In these circumstances, and given that efforts have been made to secure the attendance of the witness, the panel decided that there were sufficient safeguards to protect the teachers against any unfairness caused by being unable to cross-examine this witness. The panel noted they would be provided with a hearsay warning in due course, and that the panel would determine what weight, if any it should attach to the evidence when it came to their deliberations.

In relation to the applications by the Teachers’ Representatives to include hearsay evidence within the bundle (documents 4, 5 and 6), the panel noted that there is a distinction to be drawn between the situation when a presenting officer seeks to rely upon hearsay evidence, and the current situation when it is the defence seeking to introduce hearsay evidence, without the witness being in attendance. The former invokes considerations relating to the teacher’s right to a fair hearing, whereas the latter does not, although there remains a question of the fairness between the parties. The panel had regard to whether it would be a sufficient safeguard for a hearsay warning to be given before the panel’s determination on the facts. The panel was satisfied that any imbalance caused to the presenting officer in being unable to cross-examine the witness could be

addressed by the panel's decision in due course as to what weight it should attach to the evidence, if such evidence should be admitted.

With regard to the overall question of fairness the panel noted it would be fair to admit the evidence for the following reasons, for the witness statements of Individual C and Witness I, the responses provided by Mr Black and the interview notes of Witness A and Witness B, the Panel noted that the evidence is not the sole or decisive evidence in relation to the allegations. The panel was confident in their ability to determine in due course the weight that they gave to such evidence.

By reason of the above, the panel decided to admit each of the documents. Accordingly, the documents were added to the bundle or remained in the bundle as applicable.

Application for virtual witness attendance

An application was made by the Presenting Officer for the virtual attendance of one witness, Witness D at Suffolk County Council. An application was made by both Teacher's representatives for the virtual attendance of witnesses. The panel noted that pursuant to paragraph 4.18 of the Procedures, the Panel may admit any evidence where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel therefore considered it had a discretion as to whether to allow Witness H, Witness E, Witness F, Witness G, Witness I, Witness J and Witness D to give evidence by video-link given the distance the witness would have to travel, the costs entailed and the witnesses' work commitments (and with specificity to Witness D, [REDACTED]). In exercising that discretion, the panel balanced its obligation to ensure that the teachers or presenting officer is not put at an unfair disadvantage, as against the panel's duty in the public interest to investigate the allegations in so far as possible consistent with fairness to the teachers or presenting officer. The panel also took into account that there may be subtleties of tone or body language that might be lost via the medium of video link.

The panel was satisfied on the evidence that there had been sufficient explanation as to how the witnesses' work commitments, [REDACTED] and costs of travel would be a barrier to their attendance in person.

Allowing the evidence to be given by video link ensures fairness in that all parties were fully able to present their case. The public interest is in favour of the allegations being investigated by the panel receiving the evidence of these witnesses. The panel realised there may be subtleties of tone or body language lost via the medium of video link but considered that such matters could, in any event, be taken into account when assessing the weight it attributes to the evidence admitted by video link. The panel therefore decided they were content for the witnesses to provide evidence by video-link.

Application to amend an allegation

The panel considered an application by the presenting officer to amend the notice of hearing by amending allegation 1 against Teacher A from 'You engaged in unprofessional and/or *aggressive behaviour* on one or more occasions towards one or more pupils' to 'You engaged in unprofessional and/or *inappropriate behaviour* on one or more occasions towards one or more pupils'. The panel has the power to, in the interests of justice, amend an allegation or the particulars of an allegation, at any stage before making its decision about whether the facts of the case have been proved.

Teacher A's representative consented to the application, although noted that the application was made very late.

The panel was concerned that the amendment proposed altered the nature, scope and seriousness of the allegation. The panel decided the amendment would change the factual basis of the allegation, and that the teacher may have presented his case differently had the amendment been made at an earlier stage. The presenting officer had had ample opportunity to formulate the allegation in advance of the hearing and to amend the allegation at this stage would cause unfairness to the teacher. The panel did not consider that it was in the interests of justice to amend the allegation.

Application to adduce further evidence

Following the conclusion of the TRA's case and before Teacher A's representative opened his case, an application was made by Teacher A's representative to admit two further documents, specifically '*Government guidance on reducing the need for restraint and restrictive intervention dated 27 June 2019*' and '*Draft guidance for Department for Education – Reducing the need for restraint and restrictive intervention 'Children and Young People with Learning Disabilities, Autistic Spectrum Disorder and Mental Health Difficulties' – draft guidance for consultation – November 2017*'.

These documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such, the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. Under paragraph 4.18 of the Procedures, the panel may admit any evidence where it is fair to do so, which may reasonably be considered to be relevant to the case.

The panel was not satisfied that the documents could reasonably be considered to be relevant to the case given that the guidance post-dated when it was alleged by the TRA that the conduct took place. Since the documents did not meet the threshold of relevance, it was unnecessary for the panel to consider the question of fairness. The panel therefore decided not to admit the documents.

Following closing of the TRA's case and before Teacher A or Mr Black's case had been opened, an application was made by Mr Black's representative to adduce further documentation, specifically a number of testimonials and [REDACTED]. The panel were not asked to review the documents to determine the application. The panel noted the TRA's objection which noted that the documents were substantively prejudicial and not provided until 9:50am on the morning of the commencement of the teacher's evidence and on the same day of the application.

These documents were not served in accordance with the requirements of paragraph 4.20 of the Procedures, and as such, the panel was required to decide whether those documents should be admitted under paragraph 4.25 of the Procedures at the discretion of the panel. Under paragraph 4.18 of the Procedures, the panel may admit any evidence where it is fair to do so, which may reasonably be considered to be relevant to the case.

Considering the nature of the documents described, the panel considered they would have limited relevance to the facts at the stage of considering whether the facts have been proved and considering unacceptable professional conduct and/or bringing the profession into disrepute. However, the panel noted that a further application could be considered at the mitigation stage, should the panel reach that stage.

The panel did not consider it would be fair to admit the documents in all the circumstances. The panel found that Mr Black had already had a significant period of time to gather and serve these documents prior to the commencement of the hearing. The panel found that the documents were not produced at the earliest opportunity and having been adduced after the TRA's case had closed, the panel identified that there may be a risk that the TRA's case would be prejudiced by their late admittance. The panel therefore decided not to admit the documents.

Summary of evidence

Documents

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

Section 1: Chronology – pages 19 to 20

Section 2: Notice of hearing and response – pages 22 to 39

Section 3: Teaching Regulation Agency witness statements – pages 41 to 59

Section 4: Teaching Regulation Agency documents – pages 61 to 1603

Section 5: Teacher documents Teacher A – pages 1605 to 2097

Section 6: Teacher documents Mr Black – pages 2099 to 2251

In addition, the panel agreed to accept the following:

Responses provided by Mr Black to the notice of hearing dated 18 March 2020 – 7 pages

Investigation interview notes of Witness A for Suffolk County Council and Witness B (and accompanying audit report) – 22 pages

A witness statement of Witness I – 5 pages

The disputed bundle of unredacted documents – 67 pages

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

TRA witnesses:

- Witness A within Suffolk County Council
- Witness B at School's Choice
- Witness C of Riverwalk School
- Witness D at Suffolk County Council

Teacher A witnesses:

- Teacher A
- Witness E at the Bridge School
- Witness F at the Bridge School
- Witness G at the Bridge School
- Witness H of the Bridge School
- Witness I
- Witness J at the Bridge School

Mr Black's witnesses:

- Mr Black
- Witness J at the Bridge School

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 heard that Bridge School caters for pupils with significant special educational needs, and has a high proportion of students who have Autistic Spectrum Disorder (ASD) and sensory processing disorders (SPD). The majority of the students at the Bridge School were either non-verbal or pre-verbal.

Mr Black was initially employed by the Bridge School as a Campus Director in September 2011. He became Deputy Headteacher in or around November 2012 and Acting Headteacher in or around September 2017 when [REDACTED] Teacher A retired from his role.

Teacher A continued as [REDACTED] to support Mr Black.

In September 2017, concerns were raised by Suffolk County Council about the use of locks in the Bridge School. An investigation was subsequently undertaken by Suffolk County Council. Teacher A was suspended on 16 October 2017.

Witness C of Riverwalk School, a neighbouring school for pupils with special educational needs was contacted and appointed to provide support to the Bridge School for half a term from 30 September 2017.

On 8 November 2017, Mr Black was suspended from his role as Acting Headteacher. A disciplinary investigation followed.

Findings of fact

The findings of fact are as follows:

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

- 1. Mr Black engaged in inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who he knew or ought to have known was vulnerable, by:**
 - a. 'rolling' and/or pushing him from a corridor to a soft play room;**

Vulnerability

Mr Black gave evidence that Pupil L was a student enrolled in the secondary school at the Bridge School [REDACTED]. All pupils at the Bridge School had Special Educational Needs and the panel heard evidence the overwhelming majority were pre-verbal or non-verbal. The panel also heard extensive evidence from Witness J, Witness F, Witness G and Teacher A about Pupil L, specifically that he had [REDACTED]. The panel are

satisfied therefore on balance that Pupil L was vulnerable and that Mr Black knew of Pupil L's vulnerabilities.

Rolling and/or pushing Pupil L from a corridor to a soft play room

The panel note that the only witness to the matters alleged in allegation 1 was Individual A. Individual A was not called as a witness and no witness statement was provided, and therefore the panel only had regard to interview notes with Individual A taken for Mr Black's disciplinary investigation.

Within these notes, Individual A described Mr Black as having '*knelt down and was pushing/rolling [Pupil L]*' that '*[Mr Black] was sort of pushing and shoving [Pupil L] but every time [Mr Black] made a couple of inches he would be arms and legs. Eventually [Mr Black] got him to soft play. [Mr Black] had his glasses knocked off. I thought [Mr Black] was going to have a heart attack – he was sweating and dripping. I thought [Mr Black] couldn't keep doing it – he is going to have a heart attack. We got the soft play doors open and then got [Pupil L] arms and legs in and shut the door and bolted it. I would sit there outside until [Pupil L] had calmed down and at that point I would then phone senior management to see if [Pupil L] could come out*'.

On 17 January 2019, Individual A described the incident as '*it was not so much rolling, [Mr Black] tried to keep him moving, stop him coming back*'.

The panel expressed caution in relying on Individual A's evidence as untested hearsay evidence, but noted it was not the sole or decisive evidence and accordingly the panel could decide the appropriate weight with which to treat such evidence.

The panel noted that Mr Black had originally accepted the allegations, and signed a statement of agreed facts on 6 January 2021. In this statement Mr Black admitted that on an occasion where Pupil L was displaying challenging behaviour, he moved Pupil L by kneeling on the floor and pushing and/or rolling him from a corridor into a 'calm room'. The panel noted that Mr Black had also accepted the allegation as part of his disciplinary investigation on 18 May 2018, where when asked by Witness B '*the pushing and shoving – did it happen?*' he stated '*yes there is a good chance it did to get him out of the way*'.

The panel noted that Mr Black had since denied the allegations. Mr Black gave oral evidence that he had in fact not 'pushed' or 'rolled' Pupil L into the soft play room. Mr Black described the incident in oral evidence in detail. He explained that he had responded to a call for help from Individual A who was with Pupil L in the corridor outside the swimming pool. Mr Black described Pupil L as 'heightened' and that he felt he needed to be de-escalated as he had begun to tear down displays. Mr Black gave evidence that he couldn't de-escalate Pupil L's behaviour in the corridor as the environment was too stimulating. However, Mr Black gave evidence that he attempted to de-escalate Pupil L by speaking calmly, giving Pupil L space and using his breathing. Mr Black gave evidence that at some point Pupil L went down to the floor, following which Mr

Black supported him with the palm of his hand on Pupil L's back. Mr Black explained he applied his hand to Pupil L's back as he didn't want Pupil L to go backwards. Mr Black gave evidence that Pupil L was '*self-propelling*' and '*bum-shuffling*'. [REDACTED].

The panel noted that Mr Black provided evidence [REDACTED] and that he had been advised by his union representative that by accepting the allegations, the process would be over more quickly. [REDACTED]. The panel also noted that other than Mr Black's oral evidence, there was no other evidence that he had been advised by his union representative to accept the allegations in order for the process to be over more quickly.

The panel considered that Mr Black's memory would have been better at the time he accepted the allegations as this was closer in time to the incident than the date Mr Black gave oral evidence to the panel. The panel noted Mr Black provided more detail and new information within his oral evidence than the evidence provided in his earlier statements which were closer in time to the incident. Overall therefore, the panel considered Mr Black's change of position was a matter that it found affected his credibility as a witness.

The panel therefore found on the balance of probabilities that Mr Black pushed Pupil L from a corridor to a soft play room. The panel therefore found this allegation proven.

Inappropriate and/or unprofessional

The panel considered Pupil L's behaviour support plan, and noted that pushing and/or rolling manoeuvres were not included. The panel considered the oral evidence of Mr Black who stated that on reflection he would do things differently and use other strategies that were approved interventions. Mr Black also informed the panel that approved interventions required two people and that he would have called for support from someone who was more confident with restraint.

The panel therefore found, on balance that Mr Black had acted both inappropriately and unprofessionally in pushing Pupil L from a corridor to a soft play room.

- 1. Mr Black engaged in inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who he knew or ought to have known was vulnerable, by:**
 - b. locking him and/or instructing a member of staff to lock him in the soft play room.**

Mr Black accepted in oral evidence that when Pupil L reached the soft-play room that he bolted the door shut. Mr Black gave evidence that Pupil L needed to de-escalate and self-regulate and that Individual A supervised him once he was in the soft play room. This was consistent with Mr Black's earlier admission in the statement of agreed facts.

Individual A's evidence given to the disciplinary investigation 8 May 2018 supported Mr Black's evidence. The notes from the disciplinary investigation read '*We got the soft play doors open and then got [Pupil L] arms and legs in and shut the door and bolted it. I*

would sit there outside until [Pupil L] had calmed down and at that point I would then phone senior management to see if [Pupil L] could come out.

The panel therefore found on balance that Mr Black had locked Pupil L in the soft play room.

Inappropriate and/or unprofessional

In considering whether Mr Black had acted inappropriately or unprofessionally in locking Pupil L in the soft play room, the panel considered the guidance applicable at the time.

The panel had regard to the '*Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/or Autistic Spectrum Disorders*' dated July 2002, (the Guidance). The panel noted that this Guidance states at paragraph 2.1 '*This guidance should be used by: [...] Teachers and other staff working in schools catering for pupils with severe behavioural difficulties, for example, those with emotional and behavioural difficulties, autism and learning difficulties which can result in pupils displaying extreme behaviour*'.

The panel had regard to paragraph 4.1 which reads '*it is an offence to lock an adult or child in a room without a court order (even if they are not aware that they locked in) except in an emergency when for example the use of a locked room as a temporary measure while seeking assistance would provide legal justification.*' The panel noted that there was no evidence a court order was obtained in order to lock pupil L in the soft play room.

Under paragraph 3.1 forms of physical intervention are summarised, notably '*Restrictive physical interventions*' which '*involve the use of force to control a person's behaviour and can be employed using bodily contact, mechanical devices or changes in the person's environment*'. One of the examples of restrictive physical interventions provided is '*forcible seclusion or the use of locked doors*'. The panel therefore considered that the placing of pupils in soft play rooms and locking the door was a restrictive physical intervention for the purpose of the Guidance.

Paragraph 3.11 states '*To the extent that seclusion (where an adult or child is forced to spend time alone against their will) involves restricting a person's freedom of movement, it should be considered a form of physical intervention.*

Paragraph 3.3 states '*It is helpful to distinguish between:*

- *planned intervention, in which staff employ, where necessary, pre-arranged strategies and methods which are based upon a risk assessment [...] and recorded in care plans*

- *emergency or unplanned use of force which occurs in response to unforeseen events.'*

Paragraph 3.10 helps with the definition of emergency intervention, stating '*Unplanned or emergency intervention may be necessary when a service user behaves in an unexpected way.'*

Paragraph 9.1 considers the emergency use of restrictive physical interventions; '*Emergency use of restrictive physical interventions may be required where service users behave in ways that have not been foreseen by a risk assessment.'*

The panel had heard substantial evidence from Teacher A, Mr Black, Witness J, Witness F and Witness G about the use of locked calming rooms as a planned physical intervention, and the panel noted that 'time out' within a locked room was referenced in Pupil L's behaviour support plan. As the behaviour of Pupil L was known to be challenging at times, the panel considered that these behaviours were not unexpected and therefore the use of the locked soft play room did not fall within the definition of emergency intervention set out in the Guidance. The panel noted that it was possible that locking a pupil in a soft play room could be justified in an emergency situation under the Guidance (specifically with reference to paragraph 9), the panel did not find that this applied to the facts found proven.

Paragraph 4.1 goes on to introduce one exception in the Guidance to the statement the '*it is an offence to lock an adult or child in a room without a court order*'. This exception reads: '*The use of double or high door handles in classrooms or locking outside doors, as a safety measure and/or security precaution when children are supervised by an adult would be considered a reasonable measure to prevent a significant risk of harm within a school's duty of care to its pupils.'*

At 4.3, the Guidance states '*Schools owe a duty of care to their pupils. Providers of health and social care services owe a duty of care towards all service users. The duty of care requires that reasonable measures are taken to prevent harm. Therefore, the use of 'high handles' that are beyond the reach of a child and the use locks or other security measures on outside doors to control visitor entry are permissible, if the child is supervised by an adult.'*

The Guidance goes on at paragraph 10.10 to state '*Children and service users who lack an awareness of danger may present a risk to themselves or others in public places and for this reason the use of locked doors may be considered. In these circumstances a court order should be obtained. This does not apply to the use of high or double handles in classrooms as a safety measure, or to locking or providing security on outside doors to control visitor entry, provided that children are supervised by an adult.'*

The panel heard evidence from Witness F, Witness J, Teacher A and Mr Black that any pupil placed in a calming room or soft play room would always be supervised. The Panel also heard evidence from Mr Black that he instructed Individual A to supervise Pupil L.

This was supported by the evidence of Individual A in the bundle, which confirmed that the bolt to the soft play room door was secured and that Individual A was supervising from the outside.

Despite this, the panel distinguished the use of the locked soft play room from the exception set out at paragraph 4.1 and referenced in 4.3 and 10.10. The panel found that the Guidance made a distinction between the use of double or high door handles or outside doors as a safety measure to prevent pupils from leaving classrooms or school grounds where if they were to do so, they may be unsupervised, and the locking of a pupils in a soft play room, which the panel found was a restrictive physical intervention. The panel therefore found that the use of locked soft play rooms was contrary to the Guidance in that it was a planned physical intervention undertaken without a court order. The panel drew upon their experience and found that as the Acting Headteacher of the Bridge School at the time, Mr Black would be expected to ensure compliance with Government Guidance.

The panel therefore found that on balance, Mr Black had acted inappropriately and/or unprofessionally in locking Pupil L in the soft play room. The panel therefore found, on balance, allegation 1b proven.

The panel found the following particulars of the allegations against you not proved, for these reasons:

2. Mr Black disregarded an instruction from the Local Authority in or around September 2017 that the use of locks on doors in the School was inappropriate and to remove them.

Mr Black denied this allegation, although the panel noted Mr Black had earlier admitted the allegation on 6 January 2021 in a statement of agreed facts.

In the statement of agreed facts, Mr Black admitted to attending a meeting with Suffolk County Council on 27 September 2017 and that at this meeting he was instructed that staff should be informed that doors on the calming rooms should not be held shut to prevent pupils from leaving. Mr Black maintained this position in his oral evidence, but added that no instruction was given to remove the locks on this date.

The panel heard evidence from Witness D who stated they were present at the meeting of 27 September 2017. Witness D confirmed that Mr Black was not instructed to remove the locks at that meeting, but was informed that doors to calming rooms should not be held shut and locks should not be used. The panel was therefore satisfied on balance that the instruction from Suffolk County Council was that doors on calming rooms should not be held shut and locks should not be used, but that no instruction was given in respect of removing the locks from the calming rooms at this stage.

The panel had regard to an email from Teacher A on the same day, which referenced Mr Black's attendance at the meeting and that Mr Black had been told that the use of locked

calming rooms should be *'ceased immediately'*. The panel paid particular regard to the following statement in that email *'We really are at a loss to know what to do, and inevitably tomorrow an incident will occur where staff and pupils will be at risk, so we have had to make the decision to exclude three high risk students from school for the rest of the week while we wait for further guidance and advice.'* The panel found on balance that this email was evidence that Mr Black had taken positive action in respect of the instruction made by Suffolk County Council on 27 September 2017.

The panel also had regard to some minutes from a 'LAST' meeting of 3 October 2017 which stated at paragraph 7 *'we have 3 5 day exclusions'*. The panel noted that this was further support for the contention that action was taken in respect of the use of locked calming rooms.

The notes from the 3 October 2017 also reference a discussion about the use of the SALTO locking system within calming rooms on the primary campus.

Mr Black gave oral evidence that after the meeting with Suffolk County Council on 27 September 2017 he held an emergency staff meeting on 28 September 2017 to inform staff not to use locks on calming rooms and to remove keys. The panel noted that Mr Black had not mentioned, in his updated statement to the panel, that he had informed staff to remove keys for the locks on calming rooms. This was also not mentioned in his agreed facts or in any previous interview given as part of his disciplinary investigation. The panel also noted that the evidence about the removal of keys was given by Mr Black following the conclusion of the TRA's case and having heard the [REDACTED] evidence. The panel therefore considered this evidence and decided on balance that Mr Black had not given an instruction to remove keys for the locks on calming rooms.

As to the emergency staff meeting, the panel found that although Mr Black had maintained this position from the disciplinary investigation, none of the witnesses called who worked at the Bridge School had referenced an emergency meeting held by Mr Black. To the contrary, Witness J gave evidence that she first received an instruction on 13 October 2017 about the issue with the SALTO locking system. The panel also noted they had not been provided with any minutes for any meeting with Mr Black and the staff at the Bridge School on 28 September 2017. As a result, the panel found on balance that Mr Black had not called an emergency staff meeting on 28 September 2017.

The panel heard evidence from Witness D that on 6 October 2017 during a visit to the Bridge School, she instructed Mr Black to remove the locks on calming rooms. Mr Black accepted this in his oral evidence. Witness D's chronology, which she confirmed was drafted at the time, states *'[Witness D told [Mr Black] that the locks on all the 'calming rooms' needed to be removed that afternoon'*. On cross-examination, Witness D accepted that it was possible that the reference to 'that afternoon' was a reference to the time of the instruction as opposed to a deadline for the locks removal.

The panel therefore found that, on balance, the first instruction given by Suffolk County Council to Mr Black to remove the locks was on 6 October 2017.

Mr Black gave evidence that following this visit, he instructed the caretaker to remove the locks. The panel has not heard from the caretaker and has no other evidence to support this contention.

On 9 October 2017, Witness D provided evidence that she attended the Bridge School, found a lock to still be in situ and then requested that all locks be removed '*urgently*'.

On 11 October 2017, the panel had sight of an email from Mr Black to Witness D attaching pictures of a calming room. The email goes on to read '*Please let me know what action you wish to take with regard to this*'. The panel also had sight of an email dated 11 October 2017 from Witness D to other Suffolk County Council personnel, confirming an instruction had been given to Mr Black on 11 October 2017 to ensure there was no lock on this door.

The panel heard evidence from Witness D that she attended the school on 13 October 2017 to find "*3 out of the 4 'calming rooms'*" to still have locks on them. The panel had regard to an email from Witness D sent on 13 October 2017 which confirms the same.

Witness D gave evidence that Mr Black was surprised that the locks had not been removed. This was supported by Witness J who stated Mr Black could not believe that the locks had not been removed. Mr Black also gave oral evidence he would have expected the caretaker to have removed them following his instruction.

Witness D gave evidence that she instructed Mr Black to remove the locks by 2pm, and the email of 13 October 2017 confirms that when she returned at 1:45pm, the locks had been removed and the SALTO system disabled.

The panel noted that they do not have any evidence that the calming rooms were used following 27 September 2017 as they do not have any incident reports before them.

The panel also considered the wording of the agreed facts, which stated '*by 11 October 2017, it is agreed that locks on some of the doors have been removed; however not all have*'. The panel noted this showed some action had been taken to address Suffolk County Council's request.

The panel considered the wording of the allegation, and gave specific consideration to the word '*disregarded*'. The panel concluded that on balance, Mr Black had taken some action in respect of the instruction from the Local Authority in or around September 2017 that the use of locks on doors in the School was inappropriate and to remove them. The panel did not therefore consider Mr Black to have '*disregarded*' the instruction from the Local Authority in or around September 2017 that the use of locks on doors in the School was inappropriate and to remove them.

The panel therefore concluded that on balance, this allegation was not proven.

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

Having found allegation 1 proved, the panel went on to consider whether the facts of the proved allegation 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 Black, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Black was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The panel also considered whether Mr Black’s conduct displayed behaviours associated with any of the offences listed on pages 12 to 14 of the Advice.

The panel found on balance that the offence of child cruelty and/or neglect was relevant to inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who Mr Black knew or ought to have known was vulnerable, by pushing him from a corridor to a soft play room; and locking him and/or instructing a member of staff to lock him in the soft play room.

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 Black 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 panel had regard to paragraph 30 of the Advice which states that where a teacher is found by a panel to have displayed behaviours associated with any of the offence types shown in the list that begins on page 12, but were not convicted of an offence, a panel is likely to conclude that those behaviours would amount to "conduct that may bring the profession into disrepute".

As referred to above, the panel found on balance that the offence of child cruelty and/or neglect was relevant to inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who Mr Black knew or ought to have known was vulnerable, by pushing him from a corridor to a soft play room; and locking him and/or instructing a member of staff to lock him in the soft play room.

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

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

Panel's recommendation to the Secretary of State

The panel accepted an application by Mr Black to admit a bundle of mitigation documents (33 pages). The panel confirmed they had read the documents before considering their recommendation to the Secretary of State.

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

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and

proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

In light of the panel's findings against Mr Black, which involved engaging in inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who he knew or ought to have known was vulnerable, by pushing him from a corridor to a soft play room and locking him in the soft play room, there was a strong public interest consideration in respect of the protection of pupils, given the serious nature of their findings involving Mr Black's conduct towards Pupil L.

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

Whilst there is evidence Mr Black was otherwise well regarded as a teacher, the panel considered that the adverse public interest considerations outweighed the interest in retaining Mr Black in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher.

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 Black.

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 Black. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk;

- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 KCSIE);
- violation of the rights of pupils;

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 evidence that Mr Black's actions were deliberate.

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

The panel noted that Mr Black had a previous good record.

The panel took account of the testimonials submitted to the panel from the colleagues of Mr Black, and his friends and family. Examples included: *'His actions and decisions were always in the best interest of his students and staff. He was never afraid to step up and support us and our students.'*; *'Simon communicated well with staff, children and parents and within our school community he was respected and well liked.'*; and *'Simon has always been a very hardworking and completely dedicated to the pupils in his care'*. The panel noted that the testimonials gave positive references in respect of Mr Black's character and his care for pupils.

The panel noted Mr Black had initially admitted the allegations and signed a statement of agreed facts but that Mr Black had changed his position before the commencement of the hearing and had denied the allegations. Despite this, the panel had regard to Mr Black's evidence given to the panel that if he could go back he would do some things differently. The panel found that Mr Black showed a degree of insight and remorse for his actions.

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 Black 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 Black. The seriousness of the allegations and the failure to maintain professional practice as Acting Headteacher, having previously been Deputy Headteacher, (for example, by not following Government guidance) 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. One of these behaviours includes child cruelty and/or neglect. Despite this, the panel considered the case on its merits and took into account all of the circumstances of the case. The panel considered that there was no deliberate intention to be cruel to or to neglect a child, as supported by the testimonial evidence which stated that Mr Black always acted in the best interests of the pupils. Despite this, the panel found that the behaviour was not of a sufficient degree on the possible spectrum for the panel to consider this to be a case in which no review period was appropriate.

The panel considered that whilst Mr Black had a degree of insight and remorse into his actions, the panel did not feel this was to a sufficient degree to satisfy the panel that there was no risk of repetition. 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 provision for a review period of 4 years.

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found one of the allegations not proven. I have therefore put that matter entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Simon Black should be the subject of a prohibition order, with a review period of 4 years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Black involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

The findings of misconduct are particularly serious as they include a finding of engaging in inappropriate and/or unprofessional behaviour towards a pupil who Mr Black knew or ought to have known was vulnerable.

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 Black, 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, "The panel found on balance that the offence of child cruelty and/or neglect was relevant to inappropriate and/or unprofessional behaviour towards Pupil L, a pupil who Mr Black knew or ought to have known was vulnerable, by pushing him from a corridor to a soft play room; and locking

him and/or instructing a member of staff to lock him in the soft play room.” 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 has set out as follows, “The panel noted Mr Black had initially admitted the allegations and signed a statement of agreed facts but that Mr Black had changed his position before the commencement of the hearing and had denied the allegations. Despite this, the panel had regard to Mr Black’s evidence given to the panel that if he could go back he would do some things differently. The panel found that Mr Black showed a degree of insight and remorse for his actions.” In my judgement, the lack of full insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed that “public confidence in the profession could be seriously weakened if conduct such as that found against Mr Black was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of engaging in inappropriate and/or unprofessional behaviour towards a pupil who Mr Black knew or ought to have known was vulnerable and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct and conduct 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 Black himself. The panel has noted Mr Black had a previous good record and took account of testimonials that gave positive references in respect of Mr Black’s character and care for pupils.

A prohibition order would prevent Mr Black 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 full insight or remorse. The panel has said, “The panel considered that whilst Mr Black had a degree of insight and remorse into his actions, the panel did not feel this was to a sufficient degree to satisfy the panel that there was no risk of repetition.”

I have also placed considerable weight on the finding of the panel about the “seriousness of the allegations and the failure to maintain professional practice as Acting Headteacher, having previously been Deputy Headteacher, (for example, by not following Government guidance)”.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Black 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 insight and remorse, 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 4-year review period.

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes child cruelty and/or neglect. Despite this, the panel considered the case on its merits and took into account all of the circumstances of the case. The panel considered that there was no deliberate intention to be cruel to or to neglect a child, as supported by the testimonial evidence which stated that Mr Black always acted in the best interests of the pupils. Despite this, the panel found that the behaviour was not of a sufficient degree on the possible spectrum for the panel to consider this to be a case in which no review period was appropriate.”

I have considered whether a 4-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 this case, factors mean that allowing a 2-year review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the unprofessional conduct and the lack of full insight and remorse.

I consider therefore that a 4-year review period is required to satisfy the maintenance of public confidence in the profession.

This means that Mr Simon Black 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 26 March 2028, 4 years from the date of this order at the earliest. 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 Black remains prohibited from teaching indefinitely.

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

Mr Simon Black 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 'D Oatley', with a large, sweeping flourish at the end.

Decision maker: David Oatley

Date: 19 March 2024

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