



Teaching
Regulation
Agency

Mr Adam McCullagh: Professional conduct panel outcome

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

December 2023

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

Teacher:	Mr Adam McCullagh
Teacher ref number:	1687989
Teacher date of birth:	19 September 1991
TRA reference:	20125
Date of determination:	13 December 2023
Former employer:	Haydock High School, Merseyside

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 11 December to 13 December 2023 by way of a virtual hearing, to consider the case of Mr Adam McCullagh.

The panel members were Mrs Shabana Robertson (lay panellist – in the chair), Mr Gerry Wadwa (teacher panellist) and Ms Gill Lyon (teacher panellist).

The legal adviser to the panel was Ms Natalie Kent of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Shaun Moran of Capsticks LLP solicitors.

Mr McCullagh was not present but was represented by Mr Andrew Faux of The Reflective Practice.

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

Allegations

The panel considered the allegations set out in the notice of hearing dated 29 September 2023.

It was alleged that Mr McCullagh was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, while employed as a teacher at Haydock High School ('the School'):

1. Between 21 August 2020 and 26 September 2020 he:
 - a. Messaged Student 1 via a personal social media (Instagram) account;
 - b. Sent Student 1, one or more messages containing the text as set out in schedule A;
 - c. Sent Student 1 one or more Snapchat messages containing the text and or images as described in Schedule B or words or images to that effect.
2. His conduct at 1 was sexually motivated.

SCHEDULE A

1. 'I'D SAY THAT I'D GOT OUT AND CELEBRATE WITH YOU BUT THAT MIGHT BE A BIT WEIRD HAHA X'.
2. 'I KNOW ONE WAY I'D LIKE TO SHUT YOU UP', and goes on to say 'I TOLD YOU I WAS GOING TO SHUT YOU UP BUT IN A RUDE WAY', and 'I'LL STOP MY WEIRD MOOD BEFORE I GET MYSELF SACKED'

SCHEDULE B

1. 'YOU KNOW WHAT ELSE IS HARD' with an image of him with his hands down his pants.
2. 'I'LL BE ROUND IN 30 MINS TO JOIN'
3. 'I'M AT YOURS NOW', and 'I'LL GIVE YOU THE BEST 30 MINS OF YOUR LIFE'.

Mr McCullagh admitted the facts of allegations 1(a) and 1(b) and denied the facts of allegations 1(c) and 2, as set out in the response to the notice of referral form dated 30 March 2022. Further, in relation to the admitted facts, within the response to the notice of hearing, Mr McCullagh denied that his behaviour amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to admit additional documents

The panel considered a preliminary application from the teacher's representative for the admission of one additional document being a witness statement from Mr McCullagh.

The documents subject to the application had not been served in accordance with the requirements of paragraph 5.37 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures'). Therefore, the panel was required to decide whether the documents should be admitted under paragraph 5.34 of the 2020 Procedures.

The panel heard representations from the teacher's representative in respect of the application. The teacher's representative submitted that Mr McCullagh had only been legally represented for two weeks due to [redacted].

The presenting officer did not oppose the application.

The panel considered the additional document was relevant and that there would be no prejudice to the TRA's case in allowing the document to be considered. Accordingly, the document was added to the bundle.

Agreement of witness evidence

As a preliminary matter, the teacher's representative submitted that the witness evidence and statements of Witness B and Individual C were unchallenged by the teacher and he therefore proposed that, unless there were matters which the panel intended to question those witnesses on, these witnesses could be agreed and not called.

The panel considered that there was not likely to be any questions for Individual C and that her attending the hearing to give live evidence would not take the panel very much further in their consideration of the allegations. The panel therefore agreed that there was no need to call Individual C. However, the panel considered that there were potentially a number of clarification points and explanations from Witness B that would assist in the determination of the allegations and therefore determined that she should give oral evidence within the hearing.

Amendment to allegation

Prior to commencement of the hearing, the presenting officer and the teacher's representative agreed to amend allegation 1(b) to correct a typographical error whereby the word "more" was missing from "one or more".

Summary of evidence

Documents

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

- Section 1: Chronology, anonymised pupil list and list of key people – pages 4 to 6
- Section 2: Notice of hearing and response – pages 7 to 36
- Section 3: TRA witness statements – pages 37 to 48
- Section 4: TRA documents – pages 49 to 632
- Section 5: Teacher Documents – pages 633 to 635

In addition, the panel agreed to accept the following:

- Service bundle;
- Witness statement of the teacher.

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:

- Student 1
- Individual A – [redacted]
- Witness B – [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 McCullagh commenced employment at the School on 1 September 2017.

On 30 September 2020, concerns were raised by two year 12 pupils regarding Mr McCullagh's messaging to Student 1.

On 1 October 2020, [redacted] contacted the police and the School raising concerns about Mr McCullagh, and the School made a referral to the LADO.

On 4 February 2021, a referral was made by the police to the CPS regarding Mr McCullagh.

On 12 February 2021, Mr McCullagh was suspended from duty at the School.

On 29 April 2021, the CPS returned the decision of no further action.

On 15 June 2021, Mr McCullagh was invited to a disciplinary hearing, to take place on 30 June 2021.

On 29 June 2021, Mr McCullagh resigned from the School.

On 1 July 2021, concerns were referred to the TRA by the School.

On 28 October 2021, a letter was sent to Mr McCullagh requesting observations in relation to allegations under investigation by the TRA.

On 2 December 2021, a response was received from Mr McCullagh's representative to the above letter.

On 14 March 2022, the decision maker considered that there was a case to answer.

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. Between 21 August 2020 and 26 September 2020 you:**
 - a. Messaged Student 1 via a personal social media (Instagram) account;**
 - b. Sent Student 1, one or more messages containing the text as set out in schedule A;**
 - c. You sent Student 1 one or more Snapchat messages containing the text and or images as described in Schedule B or words or images to that effect.**

The panel considered the witness statement of Mr McCullagh.

Mr McCullagh admitted that he had exchanged messages via Instagram with Student 1 and that he “*should not have done that*”. However, Mr McCullagh denied having sent any messages via Snapchat, stating that he does, “*not use Snapchat*”.

The panel noted the witness statement and oral evidence of Student 1, who stated that [redacted], and Mr McCullagh was her [redacted].

Student 1 stated that on 20 August 2020, [redacted], Mr McCullagh sent her a message on Instagram wishing her the best for the future and told her that if she ever needed anything he was only around the corner. She stated that she expressed her thanks. Student 1 submitted that she was 16 at the time of these messages.

Student 1 explained that she believed the Instagram account was Mr McCullagh as the profile picture was of him and [redacted], and the name of the account was his full name; [redacted]. She stated that the account was followed by people she had gone to school with.

Student 1 submitted that in [redacted] she became a student at [redacted], and during this time she was sending and receiving messages daily with Mr McCullagh. She stated that these messages started out as messages about the School and [redacted].

Student 1 stated that on 26 September 2020, Mr McCullagh added her on Snapchat and began messaging her on there instead of Instagram. She submitted that she believed the Snapchat account was Mr McCullagh because, as with the Instagram account, the username was his full name; [redacted]. Student 1 stated that he had also sent her a Snapchat with his full face in view, but she does not recall when. She also stated that the topics of the conversations were also relevant to the School and people who had been in her class. Student 1 explained that the conversation topics varied, from school or [redacted], to ex-pupils or [redacted].

Student 1 stated that she never met up with Mr McCullagh after she left the School in August 2020, and that she had declined Mr McCullagh’s offer of being set up on a date with one of his friends, despite Mr McCullagh pushing her to change her mind.

Student 1 explained that at the time, she did not understand “*that what Mr McCullagh was doing and saying was wrong*”. She stated that some of her friends at [redacted] found out about the messages and told her that it was inappropriate, and told Individual E, [redacted], about the messages.

Within oral evidence, Student 1 further explained that her and her friends understood that there was a rule against teachers contacting students whilst they were a student but she did not think they were aware that this continued once students had left the school.

Within Student 1’s witness statement, she explained that she continued speaking with Mr McCullagh after the School and [redacted] knew, as [redacted] and her had decided it

was best to see if anything else was said and to avoid Mr McCullagh becoming suspicious and deleting any messages. Within her oral evidence, Student 1 stated that this decision was taken following a conversation with the police. Student 1 further stated that she stopped speaking to Mr McCullagh two days later as she felt uncomfortable.

Student 1 stated that she was aware [redacted] telephoned the police but did not know when or what she told them. She stated that there was a period of time before the police were aware of the messages that she would just open and ignore messages from Mr McCullagh, but he would follow up with messages trying to start a new conversation.

Student 1 submitted that she was interviewed by the Police on 1 October 2020, and after this she had no further involvement with the School or Police in the investigations.

The panel considered the oral evidence and witness statement of Individual A, [redacted], who explained that on the 30 September 2020 he received a call from Individual C, that an allegation had been made by Student 1 that she had been contacted by Mr McCullagh using a personal social media platform. He stated that he did not get much detail on this call, but immediately called the LADO to inform them.

Witness A stated that he called the local authority HR department with Individual D, [redacted], and they advised them to not do anything until the Police had taken Mr McCullagh's phone. He submitted that as a result he did not speak to Mr McCullagh about the allegations until a few days later when the Police came into the School.

Witness A explained that the police spoke with Mr McCullagh for around 30-45 minutes, and that once the police left and Mr McCullagh had spoken to [redacted], he escorted him off the site. He stated that following this he did not see Mr McCullagh again.

Witness A submitted that he attended a LADO meeting where it was decided any local investigations were to be placed on hold pending the outcome of the Police investigation. He stated that following having been spoken to by the police and his phone being seized, Mr McCullagh went off sick. Individual D and HR subsequently decided that Mr McCullagh should be suspended pending the investigation.

Witness A explained that the Police investigation concluded on 29 April 2021, and he was advised that there would be no further Police involvement. He stated that on 6 May 2021, he attended a further LADO review meeting where it was decided that the allegations were "*substantiated*" and that disciplinary proceedings should commence.

Witness A stated that the School protocol is that staff are not allowed to give students their personal phone numbers and that every form of communication needs to be through the School system. He explained that whilst this relates to students who currently attend the School, he noted that there is a blurry area (in the law) with former students but he would expect staff to adhere to the same rules when a student has left the School. In his

opinion, he did not consider it was appropriate for teachers to be contacting pupils who had very recently left the School.

Witness A submitted that each staff member undergoes annual safeguarding training on the first day of the academic year when they are reminded of this expectation. Witness A further submitted in his oral evidence that Mr McCullagh was aware of the risks of contacting students through social media as he had previously reported another teacher in respect of concerns he had about the teacher contacting pupils on Facebook regarding tuition. Additionally, Witness A explained that, during his induction programme, Mr McCullagh would also have received regular safeguarding training and support.

The panel considered the witness statement of Individual C who stated that on 30 September 2020, Individual E came to her office and told her two students had made a safeguarding disclosure in relation to Student 1, which she then reported to Individual D.

Within her witness statement Individual C set out that on 1 October 2020, she received an email from Student 1 with screenshots which Individual E had asked Student 1 to send over. She stated that she forwarded these to Individual D.

Individual C submitted that later that day, [redacted] came into [redacted] and asked to speak with her. She stated they had a fairly short conversation and [redacted] said she had contacted the Police.

Individual C stated that she never spoke with the Police or the School.

The panel considered the witness statement and oral evidence of Witness B, [redacted], who stated that at the time, she was a detective who was allocated to investigate this incident on 3 October 2020, but due to rest days, was first made aware of the allegations on 7 October 2020.

Witness B explained that on 1 October 2020 the Police received a complaint from [redacted] that [redacted] had informed her of a safeguarding issue concerning Mr McCullagh. She stated that [redacted] had reviewed Instagram messages between Student 1 and Mr McCullagh and saw messages of a 'sexual nature'.

Witness B stated that Mr McCullagh's phone was seized from him on 7 October 2020.

Witness B submitted that Mr McCullagh was interviewed on 14 October 2020 as a voluntary attendee and was not arrested. She stated that a police constable obtained a statement from Student 1 and exhibited 4 screenshots taken from Student 1's phone.

Witness B explained that on 28 October 2020, the Police extracted the data from Mr McCullagh's iPhone 8, but it was not reviewed until January 2021. Within her oral evidence, Witness B submitted that the messages and images which were exhibited in the extraction report and exhibited to her statement were images which were "*relevant to*

the investigation". Witness B further explained that the images which were found of a living room were considered possibly relevant as they had a similar background to the images in the messages which Student 1 claimed to have been sent on Snapchat by Mr McCullagh.

She stated that on 28 January 2021, the Police extracted the data from Student 1's iPhone 7, where they took 93 images and a screen recording of the Instagram chat with Mr McCullagh.

Witness B submitted that the Police investigation concluded on 29 April 2021 and the CPS did not authorise any criminal charges as the evidential test was not met for any potential offences under investigation which she stated were "sexual communication with a child" and "malicious communications". Witness B further submitted that due to the age of the child (being over 16), the threshold for the offence of sexual communication with a child would not be met.

Within her oral evidence, Witness B submitted that Snapchat was not a platform that the police are able to fully analyse. She stated that throughout her career, she had never been provided with an extraction report which included Snapchat messages or images and the fact that an extraction report does not include reference to Snapchat does not confirm that Snapchat messages had not been sent or exchanged on that phone.

The panel also considered the screenshots of the messages and Snapchats between Student 1 and Mr McCullagh which had been taken from Student 1's phone. The series of screenshots included the following:

- A screenshot of a message Mr McCullagh had sent to Student 1 on Instagram, which contained the text *'I can [eyes emoji], I know one way I'd like to shut you up'*, to which Student 1 responded *'Go on aha x'*, with Mr McCullagh replying *'Ignore me, I'm being rude x'* with a laughing emoji.
- A screenshot of a message Mr McCullagh had sent to Student 1 on Instagram which stated, *"Jokes Ignore me again. I'm just in one of them moods x"*. Student 1 responded, *"Ahaha Coolio aha x"* and Mr McCullagh replied, *"I'll stop my weird mood before I get myself sacked x"*.
- A screenshot of a Snapchat which Student 1 stated Mr McCullagh had sent of his living room with the caption *"I'll be round in 30 mins to join!!"* and a further Snapchat with the caption, *"I'm at yours now [eyes emoji]"*.
- A screenshot of a Snapchat which Student 1 stated Mr McCullagh had sent of his living room, with the caption *'I'll give you the best 30 minutes of your life'* with a winking emoji, followed by another photo with the caption *'what? You'd love it'*.

- A screenshot of a message Mr McCullagh had sent to Student 1 on Instagram which stated, *“I told you I was going to shut you up but in a rude way x”* with two laughing emojis.

The panel also had before it six images which had been extracted from Mr McCullagh’s mobile phone by the police. These appeared to show a living room, a female, a dog and a TV set up, which appeared to very closely resemble screenshots which Student 1 had submitted had been sent to her by Mr McCullagh. However, the panel was aware that Mr McCullagh denied that this was his living room and stated that this was not a room that he recognised.

The panel carefully considered the evidence before it.

The panel considered that in light of the screenshot evidence and the admissions of Mr McCullagh, they found allegations 1(a) and 1(b) proven.

In respect of allegation 1(c), the panel was mindful that whilst McCullagh denied having messaged Student 1 using Snapchat, he accepted that he had sent her Instagram messages which included a message which stated, *“What’s your snapchat? X”*. A screenshot of the same was before the panel. The panel also noted that the background of the photos which Student 1 stated were sent to her on Snapchat by Mr McCullagh appeared to closely match photos which had been found on Mr McCullagh’s phone by the police.

The panel considered that whilst there was documentary evidence for many of the messages which Mr McCullagh had purportedly sent to Student 1, there was no documentary evidence that he had sent her an image of himself with his hands down his pants with the caption, *“YOU KNOW WHAT ELSE IS HARD”*. The panel distinguished this message from many of the other messages which Mr McCullagh had sent as this was more explicit whereas many of the others had been based around sexual innuendo.

However, the panel did have before them screenshots of Instagram messages (which the police had extracted from Mr McCullagh’s phone) which they considered demonstrated that Mr McCullagh had been sending explicitly inappropriate messages, such as *“what made you want my D so badly if you have other guys wanting to give it you as well? Xx”* and *“I can’t say that I didn’t think about it tonight xx”* following messages in which Student 1 told Mr McCullagh that there were *“lads who may want to give it me”*. The panel therefore considered that the disputed message set out in schedule B(1) was in keeping with other messages which Mr McCullagh had sent to Student 1 (and which had been extracted from his phone by the police).

In light of Student 1’s clear witness evidence that Mr McCullagh had sent a message which stated, *‘YOU KNOW WHAT ELSE IS HARD’* with an image of him with his hands down his pants, in contrast to Mr McCullagh’s witness evidence which was at times

inconsistent with the documentary evidence, the panel determined that, on the balance of probabilities, it was more likely than not that Mr McCullagh had sent this image and words or an image or words to that effect.

Accordingly, the panel found that on the balance of probabilities, it was more likely than not that Mr McCullagh had sent Student 1 Snapchat messages such as those in schedule B and the panel found allegation 1(c) proven.

Therefore, the panel found allegations 1(a), 1(b), and 1(c) proven.

2. Your conduct at 1 was sexually motivated.

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

The panel considered whether the conduct was sexually motivated. It noted guidance from *Basson* that: "*A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship*".

The panel also considered the case of *Haris*, in which it was held that, "*in the absence of a plausible innocent explanation for what he did, the facts spoke for themselves*."

The panel considered that the acts of sending an image with his hands down his pants with a comment of '*you know what else is hard*', and sending messages that read '*I told you I was going to shut you up but in a rude way*' and "*I'll give you the best 30 mins of your life*" were by their nature sexual and had clear sexual connotations. The panel considered that the act of sending these images and messages was, on the balance of probabilities, in pursuit of sexual gratification. The panel was of the view that there was no other innocent plausible reason for Mr McCullagh's conduct and it therefore concluded that his conduct as described at allegation 1, was sexually motivated.

The panel found allegation 2 proven.

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

Having found 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 McCullagh, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr McCullagh 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, and maintain high standards in their own attendance and punctuality.
- 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 McCullagh amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

In line with the Advice, the panel also considered whether Mr McCullagh'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 listed of sexual communication with a child may be relevant as the Advice states that this relates to communication with anyone under the age of 18. However, the panel was also mindful of the evidence which they had heard in this case from Witness B who had confirmed that the criminal offence of sexual communication with a child related only to communications with somebody under the age of 16. The Advice indicates that where behaviours associated with such an offence exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct. The panel did not consider this element of the Advice in isolation.

The panel noted that although allegations 1(a), 1(b), 1(c) and 2 took place outside the education setting, they were relevant to Mr McCullagh's profession as a teacher as he was sending inappropriate messages to a former student who was under the age of 18 and who had very recently left his School.

Mr McCullagh noted within his written representations that he accepted that, "*the tone of the conversations moved away from a professional level more towards what I would describe as banter.*" and further that he recognised that, "*I ought to have exercised my judgment so as not to allow the conversation to move away from a professional level as*

that caused Student 1 to misinterpret and misconstrue the content of the messages that were exchanged.”

Accordingly, as a result of the clear imbalance in power between Mr McCullagh and Student 1 and the fact that until very recently, prior to the conduct found proven, Mr McCullagh had been in a position of trust in respect of Student 1, the panel was satisfied that Mr McCullagh was guilty of unacceptable professional conduct in respect of the conduct found proven.

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

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

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

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

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the

public/the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct; that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr McCullagh, which the panel found to be sexually motivated and which involved messaging a 16-year-old student who had very recently left the School, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

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

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 McCullagh. 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 McCullagh. 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
- abuse of position or trust (particularly involving pupils)
- any abuse of any trust, knowledge or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position
- a deep-seated attitude that leads to harmful behaviour

- dishonesty or a lack of integrity

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 McCullagh's actions were not deliberate and there was no evidence to suggest that Mr McCullagh was acting under extreme duress. In fact, the panel found Mr McCullagh's actions to be calculated and sexually motivated.

There was no evidence that Mr McCullagh demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector. However, the panel noted the evidence of Witness A, who stated that he was a *"really good teacher, who gave his time freely"* and went *"above and beyond and worked really hard to support the students as best he could."*

The panel considered that there was very limited evidence that Mr McCullagh had shown insight or remorse into his actions.

The panel considered that Mr McCullagh had sought to minimise his conduct within the limited witness evidence that he had provided. For example, within his witness statement he stated that he was *"simply offering her support in a stupid and clumsy way"* and within his representations, he stated, *"In hindsight, I recognise that I ought to have exercised my judgment so as not to allow the conversation to move away from a professional level as that has caused Student 1 to misinterpret and misconstrue the content of some of the messages that were exchanged."* The panel had found that the messages had not been misinterpreted or misconstrued by Student 1 and several were, by their very nature, sexual. The panel deemed that this demonstrated a lack of self-awareness and insight into the impact of his conduct on the student and his own motivations.

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 McCullagh 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 McCullagh. The seriousness of the conduct, which the panel had found to be sexually motivated, 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 the behaviours outlined included serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons. The panel found that Mr McCullagh's conduct amounted to serious sexual misconduct involving an abuse of trust and his position and that this had the potential to result in harm to Student 1.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

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

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

In particular, the panel has found that Mr McCullagh 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, and maintain high standards in their own attendance and punctuality.
- 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 McCullagh fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include sexually motivated behaviour towards a recent former student.

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 McCullagh, 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 McCullagh, which the panel found to be sexually motivated and which involved messaging a 16-year-old student who had very recently left the School, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which it set out as follows, "The panel considered that there was very limited evidence that Mr McCullagh had shown insight or remorse into his actions."

The panel went on to record that it "...considered that Mr McCullagh had sought to minimise his conduct within the limited witness evidence that he had provided. For

example, within his witness statement he stated that he was “*simply offering her support in a stupid and clumsy way*” and within his representations, he stated, “*In hindsight, I recognise that I ought to have exercised my judgment so as not to allow the conversation to move away from a professional level as that has caused Student 1 to misinterpret and misconstrue the content of some of the messages that were exchanged.*” The panel had found that the messages had not been misinterpreted or misconstrued by Student 1 and several were, by their very nature, sexual. The panel deemed that this demonstrated a lack of self-awareness and insight into the impact of his conduct on the student and his own motivations.”

In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception.” I am particularly mindful of the finding of sexually motivated behaviour towards a 16 year-old recent former student in this case and the serious negative 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 assess 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 McCullagh himself. While the panel observed that “There was no evidence that Mr McCullagh demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.” it goes on to record evidence from a witness that he (Mr McCullagh) “...was a “*really good teacher, who gave his time freely*” and went “*above and beyond and worked really hard to support the students as best he could.*”

A prohibition order would prevent Mr McCullagh 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 seriousness of the panel's findings regarding Mr McCullagh's behaviour.

I have also placed significant weight on the panel's comments concerning the lack of insight or remorse, which I have set out above.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr McCullagh 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 that no provision should be made for a 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. One of the behaviours outlined included serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used his professional position to influence or exploit a person or persons.

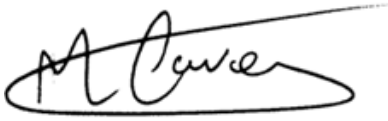
I have noted the panel's comments "The panel found that Mr McCullagh's conduct amounted to serious sexual misconduct involving an abuse of trust and his position and that this had the potential to result in harm to Student 1."

I have considered whether not allowing a 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 review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious finding of sexually motivated conduct towards a recent former student and the lack of evidence of either insight or remorse.

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

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

Mr McCullagh 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', enclosed within a large, horizontal oval stroke.

Decision maker: Marc Cavey

Date: 18 December 2023

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