



Teaching
Regulation
Agency

Mr Paul Fitter: Professional conduct panel outcome

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

May 2024

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

Teacher:	Mr Paul Fitter
Teacher ref number:	3766412
Teacher date of birth:	28 March 1976
TRA reference:	20085
Date of determination:	20 May 2024
Former employer:	The City of Birmingham School, Birmingham

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened virtually on 15 May 2024 to consider the case of Mr Paul Fitter (“Mr Fitter”).

The panel members were Mr Paul Millett (lay panellist – in the chair), Mrs Georgina Bean (teacher panellist) and Miss Nikki Heron (teacher panellist).

The legal adviser to the panel was Miss Carly Hagedorn of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA was Ms Louisa Atkin of Capsticks LLP.

Mr Paul Fitter was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 6 March 2024.

It was alleged that Mr Paul Fitter was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a Teacher at the City of Birmingham School,

1. On one or more occasions in the period between November 2019 and January 2021, he behaved in an unprofessional and/or inappropriate manner within school by:
 - a) engaging in one or more of the behaviours set out in Schedule 1 with respect to Colleague A;
 - b) making one or more comments to the effect of those set out in Schedule 2 with respect to one or more female colleagues;
2. His conduct as may be found proven:-
 - a) at 1a above was conduct which he knew or ought to have known amounted to harassment in respect of Colleague A;
 - b) at 1a and/or 1b above was conduct of a sexual nature and/or was sexually motivated.

Schedule 1

1. Making one or more comments to the effect that:-
 - a. he wanted to perform oral sex on her and/or wanted to “eat her”;
 - b. he had a “hard on” and/or she had given you a “hard on” and/or you wanted to put yourself inside her;
 - c. he had no underwear on;
 - d. he liked / is attracted to black and/or tanned women
2. Asking her;
 - a. questions about her personal / romantic relationships on one or more occasions;
 - b. whether his manhood was as big as her partner’s;
 - c. to give him her mobile number and/or to accept his on one or more occasions.
3. Licking his lips at her on one or more occasions;

4. Showing her photos of his private parts on one or more occasions;
5. Showing her the outline of his genitals through his shorts by pulling his shorts up on one or more occasions;
6. Exposing his genitals to her by pulling your shorts down on an occasion in or around September 2020;
7. Picking her up and sliding her down his front on an occasion in or around September 2020;
8. Putting her keys down the front of his pants on an occasion in or around December 2020;
9. Grabbing his genitals through his shorts and/or pulling his shorts up to show her his genitals on or around 16 December 2020;
10. On or around 8 January 2021;
 - a. lifting his shorts up to expose the outline of his genitals to her;
 - b. brushing up against her in the office;
 - c. putting his hands out towards her bottom whilst behind her in the office;
 - d. stretching over her whilst she was sitting down, so that his genital area was close to her face.

Schedule 2

1. Telling them that he did not wear underwear;
2. Telling Colleague A and Colleague B in or around September or November 2020 that he would like to have both of them together and/or perform oral sex on them;
3. Telling [REDACTED] that she looked tired and asking her if her husband was keeping her up at night;
4. Making comments to Colleague C, such as:-
 - a. Describing a cupboard she used as a “bondage cupboard”
 - b. Telling her that he was lying on his bed thinking of her;
 - c. Telling her that she could “try it on here” when handing out a new PE kit.

In the absence of a response from the teacher, the allegations are not admitted.

Preliminary applications

Proceeding in Absence

The panel considered whether this hearing should continue in the absence of the teacher.

The panel was satisfied that TRA has complied with the service requirements of paragraph 19 a to c of the Teachers' Disciplinary (England) Regulations 2012, (the "Regulations").

The panel was also satisfied that the Notice of Proceedings complied with paragraphs 5.23 and 5.24 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession (the "Procedures").

The panel has determined to exercise its discretion under paragraph 5.47 of the Procedures to proceed with the hearing in the absence of the teacher.

The panel has taken as its starting point the principle from *R v Jones* [2003] 1 AC1 that its discretion to commence a hearing in the absence of the teacher has to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In considering the question of fairness, the panel has recognised that fairness to the professional is of prime importance but that it also encompasses the fair, economic, expeditious and efficient disposal of allegations against the professional, as was explained in *GMC v Adeogba & Visvardis* [2016] EWCA Civ 162.

In making its decision, the panel noted that the teacher may waive his right to participate in the hearing. The panel has firstly taken account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1.

- i) The Panel noted that Mr Fitter was aware of the proceedings as the Notice of Proceedings was sent to Mr Fitter at least 10 weeks before the hearing to his last known address. The Notice of Proceedings was also sent to the email address that Mr Fitter had been using to correspond with the TRA. The panel had sight of a telephone attendance note dated 19 March 2024 between the TRA's legal representative and Mr Fitter. The telephone attendance note referred to the "*TRA's listing starting on 15 May 2024*". The panel also had sight of a telephone note dated 9 May 2024, a few days before the hearing, between the TRA's legal representative and Mr Fitter. The telephone note stated that Mr Fitter "*does not want to be part of the proceedings*" and "*he has no interest in taking part*" for reasons associated with his health. The panel noted that no medical evidence had been submitted by Mr Fitter in support of his position. The panel considered that Mr Fitter had voluntarily absented himself from the hearing. The panel therefore considered that Mr Fitter had waived his right to be present at the hearing in the knowledge of when and where the hearing was taking place.
- ii) The panel did not consider that an adjournment might result in Mr Fitter attending voluntarily, due to the previous communications between Mr Fitter and the TRA and/or TRA's legal representatives. The panel noted the statements within the recent telephone note dated 9 May 2024 between the TRA's legal representative and Mr Fitter, which stated that he was deleting the TRA emails as they come in. The note also stated that Mr Fitter "*does not want to be part of the proceedings*" and "*he has no interest in taking part*" for

reasons associated with his health. The panel noted that no medical evidence had been submitted by Mr Fitter in support of his position, to understand whether an adjournment would be appropriate in the circumstances. The panel also noted that the teacher did not make any application to adjourn this hearing.

- iii) The TRA's legal representative reminded Mr Fitter in the telephone attendance note dated 19 March 2024 that that he could nominate a representative such as a friend or family member to speak with to the TRA and receive correspondence on his behalf. Mr Fitter confirmed that he did not want to do this. There was no wish expressed by Mr Fitter to adjourn the hearing to obtain legal representation.
- iv) The panel considered the extent of the disadvantage to Mr Fitter in not being able to give his account of events, having regard to the nature of the evidence against him. The panel had the benefit of some written representations made by Mr Fitter. The panel would also be able to exercise vigilance in making its decision, taking into account the degree of risk of the panel reaching the wrong decision as a result of not having heard Mr Fitter's account.
- v) The panel considered the risk of reaching an improper conclusion about the absence of Mr Fitter. The panel was satisfied, based on the evidence provided (as outlined in (i) above), that Mr Fitter had voluntarily waived his right to be present at the hearing.
- vi) The panel recognised that the allegations against Mr Fitter are serious and that there is a real risk that if proven, the panel will be required to consider whether to recommend that Mr Fitter ought to be prohibited from teaching.
- vii) The panel recognised that the efficient disposal of allegations against teachers is required to maintain confidence in the profession. The former colleagues, to whom the allegations relate, would have an interest in having the allegations determined within a reasonable time. The panel noted that considerable time had already elapsed since the alleged events.
- viii) The panel also noted that there are number of witnesses present at the hearing, who are prepared to give evidence, and that it would be inconvenient for them to return again. Delaying the case by a considerable period may impact upon the memories of those witnesses.

Taking the above points into consideration, the panel decided to proceed with the hearing in the absence of Mr Fitter. The panel considered that in light of Mr Fitter's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time is in favour of this hearing continuing today.

Service of Bundle of Evidence and Application to admit Hearsay Evidence

It was brought to the presenting officer's attention that the bundle of evidence was not served in accordance with paragraph 5.36 of the Procedures. The presenting officer invited the panel to consider whether the TRA may have fallen short of the required period of not less than 10 weeks to serve the completed bundle of evidence. As such the panel was required to decide whether those documents should be admitted under paragraph 5.34 of the Procedures at the discretion of the panel.

The panel noted that the bundle of evidence was sent out to Mr Fitter with the Notice of Proceedings via email and post on 6 March 2024, 10 weeks before the hearing. The panel had sight of the Royal Mail proof of postage showing that the bundle had been delivered to Mr Fitter on 7 March 2024. The Panel noted that paragraph 1.4 (xv) of the Procedures states that a document is deemed to have been served or received on the fourth day after it is sent if it is sent by post, on the second day after it is sent if it is sent electronically and on the day of delivery if it is delivered by hand. Therefore, the bundle was served on Mr Fitter less than the required 10 week period.

The panel took into account the representations from the presenting officer. Under paragraph 5.33 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 satisfied that all of the documents in the bundle were relevant to the case. The bundle contained witness statements with exhibits from witnesses who were due to be called to give evidence at the hearing, minutes from the School's disciplinary investigation, a mitigation statement from Mr Fitter dated 22 April 2022 in response to the School's investigation, along with other relevant documents.

Hearsay evidence was contained in the bundle and so the Presenting Officer made an application to the panel to admit the hearsay evidence of Colleague A, B and C.

In determining whether to admit the evidence, the central question which the Panel considered 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 or questioned by the panel.

The panel took account of the efforts made to secure the attendance of Mr Fitter, Colleague A, B and C. The panel had sight of communications made by the TRA legal representative's to contact Colleague A, B and C.

Colleague A advised on 5 December 2022 in response to the TRA's legal representative that *"I have experienced enough in regards to this situation as a whole. I do not wish to be contacted by yourself or [paralegal] in regards to this matter. Your persistence is causing me distress and I have chosen to move forward with my life. I hope justice is served without my contribution on this case."*

The panel noted that in light of the efforts which were made to engage Colleague A, and her clear indication in December 2022 that ongoing contact with respect to the TRA proceedings was causing her distress, the TRA did not consider that any further steps could reasonably be taken to persuade her to give evidence voluntarily. The TRA also did not consider it would be appropriate to take steps to compel / force Colleague A's engagement by way of a witness summons, given the indication by Colleague A's correspondence that the prospect of giving evidence was causing her distress. The panel noted that Colleague A is the alleged victim of an allegation which is sexual in nature, and could therefore be considered to be a vulnerable witness in accordance with paragraph 5.102 of the Procedures.

The panel noted that Colleague B did not engage with the TRA and did not respond to the letters which were sent to her. The panel had sight of a trace report in May 2023 which confirmed that she was still residing at that address. The panel noted that the TRA considered whether to take steps to compel / force Colleague B's engagement by way of a witness summons. However, given that Colleague B's evidence was not sole and decisive with respect to any matters in dispute, the TRA did not consider that such a step was justified in all the circumstances.

The panel noted Colleague C provided an account which is detailed in the witness statement of Witness A, who was being called to give evidence at the hearing.

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.

Taking the above into consideration, the panel decided that there are sufficient safeguards to protect the teacher against any unfairness caused by being unable to cross-examine the witnesses. The panel will be provided with a hearsay warning in due course, and the panel will determine what weight, if any it should attach to the evidence.

With regard to the overall question of fairness, the panel noted that despite the bundle being served just short of the required period, that this did not unrealistically cause any unfairness, especially when considering the teacher's communication with the TRA (as referred to above in the proceeding in absence section) which stated that he has no interest in taking part in the hearing. The panel noted that Mr Fitter still had sufficient opportunity to make representations in respect of any of the documents.

By reason of the above, the panel decided to admit the bundle of documents, including the hearsay evidence of Colleague A, B and C.

Amendment to allegation

It was brought to the presenting officer's attention that a name of a witness had not been anonymised in Schedule 2 (3) as part of the allegations. The presenting officer requested that the name of the witness was replaced with "Colleague D" in the Notice of Proceedings to align with the anonymised list of Colleagues who were also anonymised within the Notice of Proceedings. The panel has the power to, in the interests of justice, amend an allegation at any stage before making its decision about whether the facts of the case have been proved.

Before making an amendment, the panel is required to consider any representations by the presenting officer and by the teacher, and the parties have been afforded that opportunity. The panel had decided to proceed in the absence of the teacher.

The panel considered that the amendment proposed being the anonymisation of a witness name to "Colleague D" in Schedule 2 (3) of the allegations did not change the nature, scope or seriousness of the allegations. There was no prospect of the teacher's case being presented differently had the amendment been made at an earlier stage, and therefore the panel considered that no unfairness or prejudice was caused to the teacher. The panel therefore decided to amend the allegation as proposed.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised person list – pages 4 to 7

Section 2: Notice of proceedings and response – pages 8 to 15

Section 3: Teaching Regulation Agency witness statements – pages 16 to 33

Section 4: Teaching Regulation Agency documents – pages 34 to 371

Section 5: Teacher documents – pages 372 to 374

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing.

Witnesses

The panel heard oral evidence from the following individuals who were called on behalf of the TRA:

- Witness A – [REDACTED]
- Witness B – [REDACTED]
- Witness C – [REDACTED]
- Witness D – [REDACTED]
- Witness E – [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 Fitter commenced employment as a Physical Education (“PE”) Curriculum Lead at the Grove Centre, the City of Birmingham School (“the School”) on 14 March 2016.

On 1 July 2020, Colleague C raised concerns to Witness A about inappropriate comments made to her by Mr Fitter.

Witness A met with Mr Fitter on 17 July 2020 to explain the concerns that had been raised and sent an email to Mr Fitter following the conversation confirming that any further incidents may result in formal action being taken. Mr Fitter gave an apology to Colleague C.

On 8 January 2021, Witness E witnessed an incident involving Mr Fitter and Colleague A in the School’s corridor. Mr Fitter had allegedly lifted his shorts and pulled them up tightly and the shape of his genitals could be seen.

On the same day, the Witness B witnessed an incident whereby Mr Fitter had made a squeezing gesture towards Colleague A’s bottom. Witness B informed Witness E about Mr Fitter’s inappropriate language and behaviour towards Colleague A.

On 11 January 2021, Colleague A spoke to the Witness E about her concerns regarding Mr Fitter’s behaviour towards her.

Mr Fitter was subsequently suspended from duties pending a disciplinary investigation. Mr Fitter attended a School investigation interview on 23 February 2021 and on 13 May 2021 a disciplinary hearing took place in respect of Mr Fitter’s conduct towards Colleague A and Colleague B.

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. On one or more occasions in the period between November 2019 and January 2021, you behaved in an unprofessional and/or inappropriate manner within school by:**

- a) engaging in one or more of the behaviours set out in Schedule 1 with respect to Colleague A;**

Schedule 1

- 1. Making one or more comments to the effect that:-**

- a. you wanted to perform oral sex on her and/or wanted to “eat her”;**

The panel considered Colleague A’s Incident report dated 12 January 2021, where Colleague A stated *“Around November 2020 he (referring to Mr Fitter) asked for an arrangement of just oral sex.”*

In the investigation notes of Colleague A’s interview with Witness C, Colleague A stated *“From January to February 2020 he was still hitting on me and he asked me if I had ever been eaten out.”*

Witness B, who the panel found to be consistent when giving her evidence, stated that *“Colleague A had told me about other comments Mr Fitter had made towards her such as telling her that he had a hard on or that he would like to eat her downstairs and put himself inside her.”*

In the investigation notes of Mr Fitter’s interview with Witness C, it was put to Mr Fitter that Colleague A had said that in November 2020 he asked her for an arrangement of oral sex to which she declined. Mr Fitter responded in the interview to say that the topic of oral sex came about in a conversation with Colleague A. Mr Fitter said *“It was a two-way conversation.”* The panel noted that Mr Fitter did not deny making this comment. The panel felt able to infer that he did make the comment.

On the balance of probabilities, the panel thought that it was more likely than not that these comments had been made by Mr Fitter.

- b. you had a “hard on” and/or she had given you a “hard on” and/or you wanted to put yourself inside her;**

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter stated "*I never said she was giving me a hard on. I can't recall that, it is not the context that I would say or talk to her like that, so no.*"

Witness B, who the panel found to be consistent when giving her evidence stated that "*Colleague A had told me about other comments Mr Fitter had made towards her such as telling her that he had a hard on or that he would like to eat her downstairs and put himself inside her.*"

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A stated "*17.12.20 just before the last lesson of the Christmas half term, I was in the staff room, as I was on light duties and PF came in, I was again on my own, he was talking of oral sex & pulling his shorts up and he grabbed the outside of his shorts, saying I was giving him a hard on.*"

The panel attached greater weight to the evidence of Witness B and Colleague A and found that it was more likely than not that these comments had been made by Mr Fitter.

c. you had no underwear on;

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter was asked whether he had made it known to staff that he does not wear underwear. Mr Fitter said "*No – and in the context of everything that is said and what and a lot of the staff would say, rightly or wrongly, I like to have a suntan so I use sunbeds, so they will comment and say 'look at the colour of your legs' and how dark I am. They ask if I go on the sunbeds bare and I say I don't wear underwear on sunbeds. Maybe it comes from that.*"

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A stated "*PF made it known to myself in Sept 2020 that he wears no underwear.*"

The panel also considered the evidence from other witnesses (as referred to in allegation 1(b), Schedule 2 (1) below).

The panel found that, on balance, these comments were made by Mr Fitter.

d. you like / are attracted to black and/or tanned women

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter said "*[Colleague A] had spoken to me on numerous occasions asking me to get on a dating site but I never specifically said I like black women - I have said I like people who are tanned.*"

In the investigation notes of Colleague A's interview with Witness C, Colleague A said that Mr Fitter had said that "*I looked like [REDACTED]... He then said I'm into black women and I said that's nice.*"

The panel noted that Mr Fitter admitted saying that he liked tanned women, but there was conflicting evidence between Mr Fitter and Colleague A around whether he said that he liked or was attracted to black women.

The panel attached greater weight to Colleague A's hearsay evidence.

The panel found therefore that Mr Fitter had made comments about liking black and/or tanned women.

2. Asking her;

a. questions about her personal / romantic relationships on one or more occasions;

In the investigation notes of Colleague A's interview with Witness C, Colleague A described a trip with pupils and Mr Fitter on a minibus and Mr Fitter *"was then questioning me all day about my personal relationship. He looked at ring, and said that's a bit of a rock, and I said yes. I just thought it was normal chit chat and I have been with my partner 4/5 years. He asked me if the relationship was all good and I said yes. He then asked me about my kids, asked if me and my partner lived together.."*

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter said that Colleague A was talking to him *"about a past partner and their relationship."*

The panel attached greater weight to Colleague A's evidence and, on balance, found that the question was asked by Mr Fitter.

b. whether your manhood was as big as her partner's;

In the investigation notes of Colleague A's interview with Witness C, Colleague A stated that Mr Fitter *"even asked if his manhood was as big as my new partner's."*

The panel could not see any reason as to why Colleague A would make this up and so found, on balance, that it was more likely than not that Mr Fitter had asked this question.

c. to give you her mobile number and/or to accept yours on one or more occasions.

On 17 December 2020, which was the last day of term, Witness D had observed Mr Fitter asking Colleague A for her phone number. Witness D explained that Colleague A responded that she was not going to give it to him.

Witness B had also stated that Colleague A had told her that Mr Fitter had been asking for her phone number but had refused.

The panel also considered Colleague A's incident report dated 12 January 2021. Colleague A stated *"When all the all staff were leaving he attempted to give me his*

number on a piece of paper, again I said “no “ok” he said, “well if you change your mind” he said”

The panel also considered the investigation report from Witness C, which stated *“PF does not refute that he offered to give A his telephone number on two occasions and has agreed that A refused the offer on both occasions and he further accepts that he wrote his telephone number down on a piece of paper and gave this to A.”*

The panel found that Mr Fitter had asked Colleague A for her number and had offered her his number.

3. Licking your lips at her on one or more occasions;

The panel considered Colleague A’s Incident report dated 12 January 2021, where Colleague A stated *“Daily PF will reference to performing oral sex on me, making facial gestures like licking his lips, when it was just myself.”*

In the investigation notes of Colleague A’s interview with Witness C, Colleague A said *“He [Mr Fitter] would be licking his lips and say ‘you’re still not up for it’, I would try and cut the conversations, asking him ‘do you ever have time off’, ‘do you ever take a day off.’”*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter’s conduct in the round and the oral evidence from witnesses at the hearing and so found, on balance, that it was more likely than not that Mr Fitter had licked his lips at Colleague A.

4. Showing her photos of your private parts on one or more occasions;

In the investigation notes of Colleague A’s interview with Witness C, Colleague A said *“when he [Mr Fitter] showed his phone to me, he would swipe along and it would be a picture of his privates that was on his phone.”*

Colleague A stated that Mr Fitter had shown his torso to other members of staff, but when he showed her *“it wasn’t just his torso it was a picture of his genitals.”*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter’s conduct in the round and the oral evidence from witnesses at the hearing and so found, on balance, that it was more likely than not that Mr Fitter had shown Colleague A photos of his private parts on at least one occasion.

5. Showing her the outline of your genitals through your shorts by pulling your shorts up on one or more occasions;

The panel considered Colleague A’s Incident report dated 12 January 2021, where Colleague A stated *“Every day, several times, in front of myself PF will pull his shorts up between his crotch area to show his genitals.”*

The panel also heard from Witness E during the hearing where she witnessed Mr Fitter pulling up his shorts in the School corridor when he was talking to Colleague A. Witness E made a gesture to Mr Fitter at the time as if to say “*what’s going on?*”.

The panel found that Mr Fitter pulled up his shorts on one or more occasion to show the outline of his genitals to Colleague A.

6. Exposing your genitals to her by pulling your shorts down on an occasion in or around September 2020;

The panel considered Colleague A’s Incident report dated 12 January 2021, where Colleague A stated “*Last year September he exposed himself fully by pulling his shorts down, in the staff room, again, I was on my own.*”

In the investigation notes of Colleague A’s interview with Witness C dated 18 January 2021, Colleague A said that when in the staff room, Mr Fitter has “*pulled his shorts down to just down past his waist, showing his private area, his hips and his penis.*”

In the investigation notes of Mr Fitter’s interview with Witness C, Mr Fitter said that he “*never exposed my genitals*”.

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter’s conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had pulled his shorts down on one occasion to expose his genitals to Colleague A.

7. Picking her up and sliding her down your front on an occasion in or around September 2020;

In the investigation notes of Mr Fitter’s interview with Witness C, Mr Fitter said that “*The Staff room is very narrow and very small, because we have that great bond and relationship anyway, we would’ve been close contact to each other, but I wouldn’t have picked up and slid her down. There might have been close contact with me brushing past each other, but I wouldn’t have picked her up and slid her down the front of me.*”

The panel considered Colleague A’s Incident report dated 12 January 2021, where Colleague A stated “*Last year September 2020, I was walking from the staff room to Room 1 when PF came from behind me picked me up & slid me down his frontal area.*”

In the investigation notes of Colleague A’s interview with Witness C dated 18 January 2021, Colleague A said “*In the staff room and I think it was when he was talking inappropriately, I can’t remember what he was saying but I knew I had to get out of the staff room. I came out and he lifted me up from behind to the point where I had to slide down – I didn’t even see him come up behind me.*” The panel could not see any reason as to why Colleague A would make this up, and attached greater weight to Colleague A’s evidence and so found, on balance, that it was more likely than not that Mr Fitter had picked up Colleague A and slid her down his front.

8. Putting her keys down the front of your pants on an occasion in or around December 2020;

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter said *"I gestured that I would do that - put them down front of shorts. I got the keys and I put them close but did not rub them or put them down as suggested that I was going to do."*

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A stated *"PF has asked to use my keys on my lanyard recently in December 2020, then put my keys down the front of his pants before using my keys to open the toilet doors."*

In the investigation notes of Colleague A's interview with Witness C dated 18 January 2021, Colleague A said that Mr Fitter *"asked if he can use my keys and I said why do you always have to use my keys, where are your keys? Can you not use anyone else's. I said give them back to me and make sure you wash your hands after. He then dropped them down his front, and I said that is not funny and I don't want them back."*

The panel could not see any reason as to why Colleague A would make this up, and attached greater weight to Colleague A's evidence and so found, on balance, that it was more likely than not that Mr Fitter had put Colleague A's keys down his pants.

9. Grabbing your genitals through your shorts and/or pulling your shorts up to show her your genitals on or around 16 December 2020;

The panel had seen many references to this in the Incident Report and Investigation notes of Colleague A's interview with Witness C. Colleague A stated that on 17 December 2020, Mr Fitter was *"pulling his shorts up and he grabbed the outside of his shorts."*

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter said *"when staff comment about my legs, I've raised my shorts up, never exposed my genitals, but I have lifted my shorts up slightly."*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter's conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had grabbed his genitals through his shorts and/or pulled his shorts up to show Colleague A his genitals.

10. On or around 8 January 2021;

a. lifting your shorts up to expose the outline of your genitals to her;

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A stated *"Last week Friday in front of myself & [REDACTED], PF pulled his shorts up tight that you could see the outline of his genitals. I walked off."*

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter said *"when staff comment about my legs, I've raised my shorts up, never exposed my genitals, but I have lifted my shorts up slightly."*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter's conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had lifted his shorts up to expose the outline of his genitals on this date.

b. brushing up against her in the office;

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A stated on 8 January 2021 *"in the afternoon I was going to the office for some information and as I was standing in the doorway talking to [REDACTED], PF came from behind me and brushed himself (genital area) on my bottom to get something from the office."*

In Mr Fitter's interview with Witness C, Mr Fitter said that *"I'm not denying that I hadn't gone to look at what they were doing and maybe I have brushed up against her, but it was not done deliberately."*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter's conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had brushed up against Colleague A on this date.

c. putting your hands out towards her bottom whilst behind her in the office;

Witness B had observed this incident. She said *"on 8 January 2021 at around 12:58, [Colleague A] came into my office and asked to show me something on their laptop. I agreed and she proceeded to place her laptop on my desk and leant over the desk to use their laptop. [Colleague A] had her back to the entrance to my office... Mr Fitter entered my office whilst [Colleague A] was still bent over. At this point, [Colleague A], Mr Fitter and I were the only ones present in my office. I did not see Mr Fitter enter the office as I was looking at [Colleague A]'s laptop at the time and as [Colleague A] had her back to the door, she also did not realise Mr Fitter had entered the room. Mr Fitter did not announce himself or explain why he had come to my office. When I looked up, I saw that Mr Fitter was stood by the door and he then held his hands out towards Colleague A's arse making a squeezing gesture."*

Witness B motioned the squeezing gesture that Mr Fitter did when giving evidence at the hearing.

The panel found Witness B's evidence to be consistent and found that Mr Fitter put his hands out towards Colleague A's bottom whilst in the office on this date.

d. stretching over her whilst she was sitting down, so that your genital area was close to her face.

The panel considered Colleague A's Incident report dated 12 January 2021, where Colleague A said on 8 January 2021 *"I was sitting on the soft chairs facing the photocopier, with my laptop on my lap, I was working when PF came in, stood in front of my personal space to stretch for something on the shelf above, resulting in the front of his shorts in my face."*

The panel could not see any reason as to why Colleague A would make this up, when considering Mr Fitter's conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had stretched over against Colleague A on this date whilst she was sitting down so that his genital area was close to her face.

As the panel found that Mr Fitter had engaged in all of the behaviours set out in Schedule 1, the panel considered whether those behaviours were unprofessional and/or inappropriate. The panel noted that there appeared to be a laissez-faire type of staff environment at the School and noted that despite this recognition, all of the behaviours as set out in Schedule 1 which Mr Fitter engaged in, were totally unprofessional and inappropriate. The panel noted that Mr Fitter's behaviour was in complete conflict with how a teacher should conduct themselves towards a fellow colleague.

The panel found allegation 1(a) proved.

b) making one or more comments to the effect of those set out in Schedule 2 with respect to one or more female colleagues;

Schedule 2

1. Telling them that you did not wear underwear;

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter was asked whether he had made it known to staff that he does not wear underwear. Mr Fitter said *"No – and in the context of everything that is said and what and a lot of the staff would say, rightly or wrongly, I like to have a suntan so I use sunbeds, so they will comment and say 'look at the colour of your legs' and how dark I am. They ask if I go on the sunbeds bare and I say I don't wear underwear on sunbeds. Maybe it comes from that."*

The panel considered Colleague A's Incident Report dated 12 January 2021, where Colleague A stated *"PF made it known to myself in Sept 2020 that he wears no underwear."*

Witness D stated in oral evidence that Mr Fitter wore shorts that were thin, made out of t-shirt material and would say that he never wore underwear.

Witness E stated in oral evidence that Mr Fitter has said that he doesn't wear any underwear and wears jersey type shorts which are quite thin.

The panel noted the corroborating accounts of Witness D and E. The panel therefore found that, on balance, these comments were made by Mr Fitter.

2. Telling Colleague A and Colleague B in or around September or November 2020 that you would like to have both of them together and/or perform oral sex on them;

In the investigation notes of Mr Fitter's interview with Witness C, Mr Fitter was asked about whether he had propositioned Colleague A and another colleague about performing sexual acts on both of them. Mr Fitter said *"That would've been, not performing oral sex - it would've been 'come on ladies I have enough energy for everyone' which I have stated."*

In the investigation notes of Colleague A's interview with Witness C dated 18 January 2021, Colleague A said *"In November last year (2020), the pupils were in, and myself and [Colleague B] were walking down the stairs, he was in front of us and he said he could 'eat the two of us out no problem'. [Colleague B] and I looked at each other and I don't remember what my response was, I don't think I responded and we both continued to walk down the stairs".*

In the investigation notes of Colleague B's interview with Witness C dated 19 January 2021, Colleague B said *"I can't remember exactly what was said. We normally laugh and joke a lot as that is how we keep going at work. It was like a comment like "I'll have the both of you together" or "it would be nice to have the both of you together". It was that kind of comment."*

The panel could not see any reason as to why Colleague A and Colleague B would make this up, when considering Mr Fitter's conduct in the round and so found, on balance, that it was more likely than not that Mr Fitter had made these comments to Colleague A and Colleague B.

3. Telling Colleague D that she looked tired and asking her if her husband was keeping her up at night;

The panel heard oral evidence from Colleague D (Witness E) who stated that Mr Fitter had made these comments to her and remembers this incident very well. She said that she and Mr Fitter were conducting scan and searches of each pupil at the doors when he made the comments.

The panel found that Mr Fitter had made these comments to Colleague D.

4. Making comments to Colleague C, such as:-

a. Describing a cupboard she used as a "bondage cupboard"

The panel considered the evidence of Witness A, who stated that Colleague C had told him that Mr Fitter had made these comments to her.

The panel also had sight of the text messages between Colleague C and Witness A

regarding Mr Fitter's conduct and how his conduct should be dealt with.

The panel reviewed an email which was sent to Mr Fitter by Witness A in respect of his conduct towards Colleague C. The email stated that Witness A understood that Mr Fitter had "*spoken directly to [Colleague C] to apologise for any distress you may have caused.*"

The panel found that Mr Fitter had made these comments to Colleague C.

b. Telling her that you were lying on your bed thinking of her;

The panel considered the evidence of Witness A, who stated that Colleague C had told him that Mr Fitter had made these comments to her.

The panel also had sight of the text messages between Colleague C and Witness A regarding Mr Fitter's conduct and how his conduct should be dealt with.

The panel reviewed an email which was sent to Mr Fitter by Witness A in respect of his conduct towards Colleague C. The email stated that Witness A understood that Mr Fitter had "*spoken directly to [Colleague C] to apologise for any distress you may have caused.*"

The panel found that Mr Fitter had made these comments to Colleague C.

c. Telling her that she could "try it on here" when handing out a new PE kit.

The panel again considered the evidence of Witness A, who stated that Colleague C had told him that Mr Fitter had made these comments to her.

The panel also had sight of the text messages between Colleague C and Witness A regarding Mr Fitter's conduct and how his conduct should be dealt with.

The panel reviewed an email which was sent to Mr Fitter by Witness A in respect of his conduct towards Colleague C. The email stated that Witness A understood that Mr Fitter had "*spoken directly to [Colleague C] to apologise for any distress you may have caused.*"

The panel found that Mr Fitter had made these comments to Colleague C.

As the panel found that Mr Fitter had engaged in all of the behaviours set out in Schedule 2, the panel considered whether those behaviours were unprofessional and/or inappropriate. The panel noted that there appeared to be a laissez-faire type of staff environment at the School and noted that despite this recognition, all of the behaviours as set out in Schedule 2 which Mr Fitter engaged in, were totally unprofessional and inappropriate. The panel noted that Mr Fitter's behaviour was in complete conflict with how a teacher should conduct themselves towards a fellow colleague.

The panel found allegation 1(b) proved.

2. Your conduct as may be found proven:-

a. at 1a above was conduct which you knew or ought to have known amounted to harassment in respect of Colleague A;

The panel considered the three definitions of harassment under section 26 of the Equality Act 2010 when considering this allegation. The panel noted the type of conduct found proven in 1a, which the panel found to be of a sexual nature (in allegation 2b below).

The panel understood that “unwanted conduct” as referred to in the Equality Act, means the same essentially as “unwelcome” or “uninvited” and it does not mean that express objection is made to the conduct before it is deemed to be unwanted.

In the investigation notes of Mr Fitter’s interview with Witness C, Mr Fitter was asked to describe the environment at the School. Mr Fitter said *“It is extremely formal with the pupils but when staff are in a social setting or after the pupils are gone it becomes informal and more relaxed; informal in the way of mannerisms and how staff talk to each other, which is a lot more laid back - in how we talk to each other.”*

The panel also heard from the witnesses during the hearing. Witness D described the School’s staff room as a place where staff would engage in banter. Witness C described the ethos and atmosphere at the School as “relaxed”.

The panel noted that upon review of the investigation notes of Mr Fitter’s interview with Witness C, Mr Fitter did not appear to have self-awareness as to how his behaviour was construed by his fellow colleagues. Mr Fitter stated that his conduct towards Colleague A was reciprocated by her and referred to his conduct as banter.

Colleague A said to Witness C that she *“would try and cut the conversations, asking him ‘do you ever have time off’, ‘do you ever take a day off.’”*

Witness D stated that on 17 December 2020, Colleague A had said to her that she’d had enough and did not understand why Mr Fitter did not accept that she was not interested.

Witness B gave evidence about an incident on 8 January 2021 (as referred to in Schedule 1 10(a) above). She stated that Colleague A had told Mr Fitter that his conduct towards her was inappropriate.

The panel heard evidence from Witness D and Witness B that they had witnessed conversations between Mr Fitter and Colleague A and had never seen Colleague A engage in banter with Mr Fitter and Colleague A would try to close down her conversations with Mr Fitter.

The panel noted that the hearsay evidence of Colleague A was supported by the evidence of the witnesses who were called to give evidence.

The panel noted that the laissez-faire type of staff environment at the School had no bearing on Mr Fitter's conduct. The panel considered that the type of conduct was unwanted and had the potential to violate Colleague A's dignity. The panel concluded that Mr Fitter ought to have known that his conduct amounted to harassment in respect of Colleague A, especially in circumstances over a 14 month period and when she had made it known to Mr Fitter that his conduct was inappropriate.

The panel found allegation 2(a) proved.

b. at 1a and/or 1b above was conduct of a sexual nature and/or was sexually motivated.

The panel considered Mr Fitter's position as set out in the investigation notes of Mr Fitter's interview with Witness C. When asked about whether there were any witnesses to the conversations or jokes of a sexual nature, Mr Fitter said "*Yes, in a joking way, it would be [Colleague A], [Colleague B] and [Colleague D] where I would say I've got loads of energy and they would say you couldn't handle us – in a joking format*". When asked about whether the conversations were just between Mr Fitter and Colleague A, Mr Fitter said "*I would say so, yes.*"

The panel did not consider there to be any reason why Colleague A, Colleague B or Colleague C would lie about the allegations. Colleague A, B and C's accounts were supported by the oral evidence of the witnesses that were in attendance at the hearing.

The panel considered the case of GMC v Haris (2020). The panel asked itself whether on the balance of probabilities reasonable persons would think the words and actions found proven could be sexual. The panel was of the view that a reasonable person would consider Mr Fitter's conduct to be of a sexual nature.

The panel considered that the language and conduct of Mr Fitter found proved in allegations 1(a) and 1(b) as set out in Schedule 1 and 2. The panel noted that Mr Fitter's conduct was, by its very nature, sexual.

The panel noted that in the case of Basson v GMC (2018), it stated "the state of a person's mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence".

It was also stated in this case that a sexual motive means the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

In response to a question about whether he would like to have a relationship with Colleague A on a sexual or romantic basis, Mr Fitter stated in his interview with Witness C "*Absolutely not, no. I would love to have a working relationship with [Colleague A] but take out the stupidity.*"

The panel was of the view that Mr Fitter's conduct towards Colleague A was in pursuit of

a future sexual relationship when considering the proven conduct in Schedule 1 and the comments from the witnesses during the hearing about Mr Fitter's unprofessional behaviour particularly towards Colleague A. The panel concluded therefore that Mr Fitter's conduct towards Colleague A was sexually motivated.

The panel did not see any evidence to support the allegation of sexual motivation in respect of Colleagues B, C and D. Therefore, the panel were not satisfied that Mr Fitter's conduct towards Colleagues B, C and D was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

In light of all of Mr Fitter's various verbal and physical incidents towards Colleague A and on the balance of probabilities, the panel found allegation 2(b) proved, solely in respect of allegation 1(a).

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute and/or conviction of a relevant offence

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 Fitter, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Fitter was in breach of the following standards

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by;
 - showing tolerance of and respect for the rights of others;
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect.
- 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 not satisfied that the conduct of Mr Fitter, in relation to the facts found proved, involved breaches of KCSIE or Working Together to Safeguard Children.

The panel was satisfied that the conduct of Mr Fitter fell significantly short of the standard of behaviour expected of a teacher, given the serious findings of conduct that was of a sexual nature and sexually motivated towards Colleague A.

The panel also considered whether Mr Fitter's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of harassment was relevant.

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

Accordingly, the panel was satisfied that Mr Fitter was guilty of unacceptable professional conduct.

The panel then considered whether Mr Fitter's conduct may bring the profession into disrepute.

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

In considering the issue of disrepute, the panel also considered whether Mr Fitter's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of harassment was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

The findings of misconduct are serious, which included a finding of conduct that was of a sexual nature and sexually motivated, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher.

The panel considered that Mr Fitter's conduct could potentially damage the public's perception of a teacher.

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

Having found the facts of particulars 1a, 1b, 2a and 2b proved, the panel further found that Mr Fitter'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Fitter and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

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

In the light of the panel's findings against Mr Fitter, which involved findings of sexually motivated conduct towards Colleague A, there was a strong public interest consideration in considering that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Fitter 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 Fitter was outside that which could reasonably be tolerated.

There was limited evidence of Mr Fitter's ability as an educator and the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Fitter in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is

evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position;
- sustained or serious bullying (including cyberbullying), or other deliberate behaviour that undermines pupils, the profession, the school or colleagues;

Even though the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

There was evidence that Mr Fitter's actions were deliberate. He described his conduct toward his colleagues as 'banter'.

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

The panel noted that Mr Fitter was liked as a teacher, from the oral evidence provided by the witnesses at the hearing, but there was no evidence to suggest that Mr Fitter demonstrated exceptionally high standards.

The panel took account of Mr Fitter's Statement to the School dated 22 April 2022 which was provided to the School as part of the School's disciplinary process. Mr Fitter referenced his [REDACTED] within the statement and stated that he was "*actually the person who was being harassed as on a daily basis I was subject to not only the person in question by other members of staff and senior staff laughing and joking about my legs...*" Mr Fitter also stated that the conversations with Colleague A were "*two way conversations*". The panel noted that Mr Fitter said in his investigation interview with Witness C that his conversations with Colleague A were reciprocated and referred to having banter with his colleagues.

The panel noted that Mr Fitter was deflective of his behaviour and showed a very limited level of insight or remorse. He stated in his investigation interview with Witness C, when referring to Colleague A, that he was "*devastated that I may have upset and caused her harm.*"

The panel noted the [REDACTED] affecting Mr Fitter but noted that there was no medical evidence to support his statements.

The panel also noted the comments from Witness E who described Mr Fitter as a "*bubbly, happy chappy who gets on with everybody. He worked hard and he was always happy to help... There was no concerns with the way in which he conducted himself.*"

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 Fitter 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 Fitter. The findings that his conduct towards Colleague A was sexually motivated and his insight into his behaviour was limited were significant factors 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. One of these include serious sexual misconduct, e.g. 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 Fitter was responsible for conduct towards Colleague A that was of a sexual nature and sexually motivated. The panel noted the serious effect that Mr Fitter's conduct had on the lives of Colleagues A, B and C.

The panel weighed the seriousness of Mr Fitter's misconduct with their experience from other TRA cases of sexual misconduct. The panel considered the [REDACTED] affecting Mr Fitter and noted that a longer review period may assist Mr Fitter to address his [REDACTED] and attend appropriate training courses to help him with his behaviour towards female colleagues in a work environment. The panel also took into consideration whether there was a risk of reputation and considered that a longer review period may allow Mr Fitter time to address his issues.

The panel also noted that after any review period, Mr Fitter would have to apply to the Secretary of State for the prohibition order to be reviewed and set aside and would need to demonstrate his suitability to be employed or engaged to carry out teaching work.

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 5 year 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 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 Paul Fitter should be the subject of a prohibition order, with a review period five years.

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by;
 - showing tolerance of and respect for the rights of others;
 - not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect.
- 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 not satisfied that the conduct of Mr Fitter, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and Working Together to Safeguard Children.

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

The findings of misconduct are serious as they include behaviour with Colleague A that was sexual in nature and sexually motivated.

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 or 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 Fitter, 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/safeguard pupils. Although this case involved behaviour with colleagues, I have considered the following observation from the panel, "The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "The panel noted that Mr Fitter was deflective of his behaviour and showed a very limited level of insight or remorse." In my judgement, the lack of insight or remorse means that there is some risk of the repetition of this behaviour. 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, In the light of the panel's findings against Mr Fitter, which involved findings of sexually motivated conduct towards Colleague A, there was a strong public interest consideration in considering that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Fitter was not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of sexually motivated conduct involving a colleague in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct or 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 Fitter himself and the panel comment “Mr Fitter was liked as a teacher, from the oral evidence provided by the witnesses at the hearing, but there was no evidence to suggest that Mr Fitter demonstrated exceptionally high standards.”

A prohibition order would prevent Mr Fitter 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 “There was limited evidence of Mr Fitter’s ability as an educator and the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Fitter in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher.”

I have also placed considerable weight on the finding of the panel that “There was evidence that Mr Fitter’s actions were deliberate. He described his conduct toward his colleagues as ‘banter’.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Fitter 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 5 year review period.

I have considered the panel’s comments “The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. One of these include serious sexual misconduct, e.g. 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 Fitter was responsible for conduct towards Colleague A that was of a sexual nature and sexually motivated. The panel noted the serious effect that Mr Fitter’s conduct had on the lives of Colleagues A, B and C.”

In this case, factors mean that allowing a lesser review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings and the lack of insight or remorse.

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

This means that Mr Paul Fitter 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 2029, 5 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 Fitter remains prohibited from teaching indefinitely.

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

Mr Fitter has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'SABuxcey', with a horizontal line underneath.

Decision maker: Sarah Buxcey

Date: 22 May 2024

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