



Teaching
Regulation
Agency

Dr Esther Garcia Rodriguez: 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:	Dr Esther Garcia Rodriguez
Teacher ref number:	0432197
Teacher date of birth:	2 October 1971
TRA reference:	19343
Date of determination:	24 May 2024
Former employer:	Oxford Spires Academy, Oxford

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 23 and 24 May 2024 by way of a virtual hearing, to consider the case of Dr Esther Garcia Rodriguez.

The panel members were Mr Richard Young (lay panellist – in the chair), Ms Megan Gomm (lay panellist) and Ms Amanda Godfrey (teacher panellist).

The legal adviser to the panel was Mr Nicholas West of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Lee Bridges, instructed by Kingsley Napley LLP solicitors.

Dr Garcia Rodriguez was not present and was not represented.

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 proceedings dated 12 March 2024.

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

1. Whilst she was employed as a teacher at Fitzharrys School on or around May 2009 and 2010, she had inappropriate communications with Pupil B via MSN messenger, when she knew or ought to have known that he was under 16;
2. Whilst she was employed as a teacher at Oxford Spires Academy (“the School”)
 - a) On or around 30 September 2016 she invited Pupil A and/or other male pupils to join her for a birthday dinner celebration when she knew or ought to have known that this was not appropriate;
 - b) On one or more occasions between January 2018 and May 2018, she drove Pupil A alone and/or with his siblings to and from School;
 - c) On an unknown date, drove Pupil A to a secluded location when she knew or ought to have known that this was not appropriate;
 - d) On one or more occasions between 2015 and 2018, had regular contact with Pupil A outside of school;
 - e) On one or more occasions between 2015 and 2018, had one or more inappropriate conversations with Pupil A in person and/or via WhatsApp;
 - f) On an unknown date, she took Pupil A to a public house;
 - g) On an unknown date between January 2018 and May 2018, she discussed stockings with Pupil A and/or how female scientists should dress;
 - h) On an unknown date between January 2018 and May 2018, she gave Pupil A a sexually suggestive book called ‘The Reader’;
 - i) On one or more occasions between 2015 and 2018 used the phrase ‘love you’ or words to that effect in one or more communications with Pupil A;
3. On or around 20 January 2020, received a Sexual Risk Order (“SRO”) from Oxford Magistrates Court pursuant to Section 122A of the Sexual Offences Act 2003.
4. By her conduct as set out above in one or more of the allegations, she:
 - a) failed to maintain professional boundaries;

b) failed to act with integrity

5. Her conduct as set out in allegation 1 and/or 2(a) to (i), was sexually motivated.

Dr Garcia Rodriguez made no admission of fact in respect of the allegations as set out above.

Preliminary applications

Application to proceed in the absence of the teacher

Dr Garcia Rodriguez was not present at the hearing nor was she represented. The presenting officer made an application to proceed in the absence of Dr Garcia Rodriguez. The presenting officer provided additional documents in support of this application, namely a service bundle of 32 pages. The panel agreed to admit these documents and consider them in respect of this application.

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

The panel was satisfied that the Notice of Hearing had been sent to Dr Garcia Rodriguez in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the “2020 Procedures”). There was a change in the identity of one of the panel members on 23 May 2024 but the panel was satisfied that this was notified to Dr Garcia Rodriguez as soon as possible in accordance with rule 5.27 and this did not therefore invalidate the Notice of Hearing.

The panel noted correspondence in the service bundle from Dr Garcia Rodriguez to Louise Murphy-King of Kingsley Napley on 8 September 2022 where she stated “*I do not wish to be contacted any further about this matter and will not engage in any more communications*”. The presenting officer confirmed Dr Garcia Rodriguez had also emailed the TRA on 7 May 2024 stating “*As explained in the previous response, I will not attend. Can you please stop sending me emails, requests or documentation. I have made clear that I do not wish to be contacted*”. The panel concluded that Dr Garcia Rodriguez’s absence was therefore voluntary and that she was aware that the matter would proceed in her absence.

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

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

Summary of evidence

Documents

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

- Section 1: Chronology and list of key people – pages 4 to 7
- Section 2: Notice of proceedings and response – pages 8 to 15
- Section 3: TRA witness statements – pages 16 to 21
- Section 4: TRA documents – pages 22 to 272

In addition, the panel agreed to accept the following for the purposes of considering the application to proceed in the absence of Dr Garcia Rodriguez:

- A service bundle of 32 pages.

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

Witnesses

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

- Witness A, [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.

From 1 September 2009 to 21 August 2013, Dr Garcia Rodriguez was employed at Fitzharrys School.

Between May 2009 and 2010, Dr Garcia Rodriguez allegedly had inappropriate communications with Pupil B via MSN Messenger. [REDACTED] who attended Fitzharrys School, where Dr Garcia Rodriguez undertook casual supply work and subsequently taught at until 13 July 2008.

On 1 September 2013, Dr Garcia Rodriguez commenced employment at Oxford Spires Academy (the "School"), an academy which was part of the Anthem Schools Trust.

In 2014, Dr Garcia Rodriguez began teaching Pupil A. On or around 30 September 2016, Dr Garcia Rodriguez allegedly invited Pupil A and/or other male pupils to join her for a birthday dinner celebration.

In January and May 2018, Dr Garcia Rodriguez allegedly drove Pupil A alone and/or with his siblings to and from School. Dr Garcia Rodriguez also allegedly drove Pupil A to a secluded location, on an unknown date.

Between 2015 and 2018, Dr Garcia Rodriguez allegedly had regular contact with Pupil A outside of School, and allegedly had one or more inappropriate conversations with Pupil A in person and/or via WhatsApp. Dr Garcia Rodriguez allegedly used the phrase 'love you', or words to that effect in one or more communications with Pupil A.

Dr Garcia Rodriguez allegedly drove Pupil A to a public house, on an unknown date.

Between January and May 2018, Dr Garcia Rodriguez allegedly discussed stockings with Pupil A and/or how female scientists should dress. Dr Garcia Rodriguez also allegedly gave Pupil A a sexually suggestive book called 'The Reader'.

Dr Garcia Rodriguez allegedly deleted one or more messages between her and Pupil A.

In May 2018, a disclosure was made by a student regarding Pupil A and Dr Garcia Rodriguez. On 23 May 2018, an initial Position of Trust meeting was held.

On 31 August 2018, Dr Garcia Rodriguez ceased employment at the School.

On 1 September 2018, Dr Garcia Rodriguez was appointed director of STEM at Oakbank School, another academy which was part of the Anthem Schools Trust. She did not start this role due to police investigations into her conduct.

On an unknown date, the police seized electronic devices from Dr Garcia Rodriguez and MSN Messenger messages from 2009 and 2010 between Dr Garcia Rodriguez and Pupil B, who appeared to be a [REDACTED], were identified.

On 28 August 2019, a Position of Trust meeting was held at Cowley Police Station. [REDACTED].

On 28 August 2019, Individual A, [REDACTED] at Anthem Schools Trust, commenced an investigation into Dr Garcia Rodriguez's conduct.

On 4 December 2019, Dr Garcia Rodriguez attended a formal investigation meeting.

On 24 January 2020, a disciplinary hearing took place.

On or around 20 January 2020, Dr Garcia Rodriguez received a Sexual Risk Order from Oxford Magistrates' Court.

On 21 January 2020, Dr Garcia Rodriguez resigned, and on 27 January 2020, she ceased employment at Oakbank School.

On 24 August 2021, a referral was made to the [REDACTED].

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. Whilst you were employed as a teacher at Fitzharry's School on or around May 2009 and 2010, you had inappropriate communications with Pupil B via MSN messenger, when you knew or ought to have known that he was under 16;**

The panel considered the occurrence details log from Thames Valley Police, in particular an entry dated 16 October 2018. The entry stated that the content of Dr Garcia Rodriguez's laptop had been downloaded and that there were some MSN messages between her and a male who appeared to be an ex-pupil. The entry also confirmed "*within the messages he confirms he is [REDACTED] old*" and "*Some of the messages are of a flirtatious nature*".

The panel considered an entry dated 20 June 2019, which described messages from the end of 2009 to May 2010 between Dr Garcia Rodriguez and a male that "*identifies himself through the messages as someone who is aged [REDACTED] old at the time*". Dr Garcia Rodriguez referred to the ex-pupil as being "*good looking*" and that they "*looked pretty fine*" the last time she saw them. The notes stated that the messages speak about them meeting up and that Dr Garcia Rodriguez refers to the ex-pupil "*keeping her as his secret to avoid embarrassment*".

The notes stated that Dr Garcia Rodriguez said she "*bought the most gorgeous and sexy dress*" which is "*all shiny and skin-fit, with long low cleavage*". Dr Garcia Rodriguez said she would send the ex-pupil a photo so that they could "*dream for the next two years*". Within the messages the ex-pupil spoke about having bought their suit for prom, to which Dr Garcia Rodriguez replied "*I bet you look properly hot in it :)*".

The notes further stated that Dr Garcia Rodriguez tried to persuade the ex-pupil to meet her, and that the ex-pupil stated "*well I know you will be screaming when we meet*", to which Dr Garcia Rodriguez replied "*I should hope so!*" with an emoji with a smiley face sticking its tongue out.

The panel considered the School's investigation report dated 6 December 2019. This notes that the police seized Dr Garcia Rodriguez's electronic devices and on examination MSN messages from late 2009 to mid 2010 were revealed. The messages were between Dr Garcia Rodriguez and Pupil B, who identified himself as [REDACTED] at the time of the messages.

The panel considered the [REDACTED] dated 13 January 2021 which referred to representations it had received from Dr Garcia Rodriguez. This states "[REDACTED]".

Although the panel did not have sight of the MSN Messenger messages between Dr Garcia Rodriguez and Pupil B, it was satisfied that they existed. The panel considered the police evidence was contemporaneous and reliable so appropriate weight could be attached to it. There were also references in the [REDACTED] to Dr Garcia Rodriguez's representations which did not dispute the existence or content of the messages, only the context.

The panel also noted a letter from Fitzharrys School confirming Dr Garcia Rodriguez worked there from 2008 to 2013.

Based on all of the available evidence, the panel was satisfied that Dr Garcia Rodriguez had inappropriate communications with Pupil B via MSN Messenger whilst employed at Fitzharrys School and she knew he was under 16 years old. The panel therefore found allegation 1 proven.

2. Whilst you were employed as a teacher at Oxford Spires Academy ("the School")

a) On or around 30 September 2016 you invited Pupil A and/or other male pupils to join you for a birthday dinner celebration when you knew or ought to have known that this was not appropriate;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 26 July 2018 regarding a review of Dr Garcia Rodriguez's mobile telephone. The entry states "*Within the photos on the mobile there are 2 photos of the victim and his friends at [REDACTED] on 30/09/16*". The panel was satisfied, on the balance of probabilities, that this would have likely been a birthday dinner celebration due to the close proximity of the date of the photograph to Dr Garcia Rodriguez's birthday on 2 October.

The panel considered the School's investigation meeting minutes dated 4 December 2019. The minutes state Dr Garcia Rodriguez's admitted "*Yes, I attended [REDACTED] with students. It was a group of friends. Everything was quite open as they were talking about their love life...*".

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez's responses at this meeting.

Based on all of the evidence available, the panel was satisfied, on the balance of probabilities, that on or around 30 September 2016 Dr Garcia Rodriguez invited Pupil A and other male pupils to join her for a birthday dinner celebration and she knew or ought to have known that this was not appropriate. The panel therefore found allegation 2 a) proven.

b) On one or more occasions between January 2018 and May 2018, you drove Pupil A alone and/or with his siblings to and from School;

The panel noted the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez's initial arrest interview. The entry states "*She also regularly gave him lifts to and from school. Sometimes with others in the car, sometimes on his own*".

The panel took account of the Oxfordshire County Council LADO Case Notes and, in particular, an entry dated 1 June 2018. This entry referred to a telephone call from Individual B at the Multi Agency Safeguarding Hub to Pupil A's mother who reported Dr Garcia Rodriguez had been "*doing regular drop lifts for the boys*".

The panel considered the minutes of the School's investigation report dated 4 December 2019. The minutes confirm that Dr Garcia Rodriguez accepted that she provided Pupil A "*and his two siblings*" with lifts to School. Dr Garcia Rodriguez further accepted this was "*every day for a few months*" and on the way back "*it was just him*".

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez's responses at this meeting.

Taking all of the available evidence into account, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez drove Pupil A alone and/or with his siblings to and from School on a number of occasions between January 2018 and May 2018 and the panel therefore found allegation 2 b) proven.

c) On an unknown date, drove Pupil A to a secluded location when you knew or ought to have known that this was not appropriate;

The panel considered the School's investigation meeting minutes dated 4 December 2019. The minutes state that Dr Garcia Rodriguez admitted, when asked, that she drove her car to a secluded location with Pupil A. Dr Garcia Rodriguez stated "*On one occasion, I drove him to a place he mentioned because he wanted to speak about his relationship issues*".

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez's responses at the meeting.

Based on the evidence available, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez drove Pupil A to a secluded location and she knew or ought to have known that this was not appropriate. The panel therefore found allegation 2 c) proven.

d) On one or more occasions between 2015 and 2018, had regular contact with Pupil A outside of school;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez's initial arrest interview. The entry states "*She admitted that over the past 2-3 years she has had regular contact with the victim*".

The panel was satisfied that the police evidence was contemporaneous and reliable so appropriate weight could be attached to it.

Based on the available evidence, and the panel's previous finding of fact that Dr Garcia Rodriguez drove Pupil A alone on a number of occasions, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez had regular contact with Pupil A outside of School and the panel therefore found allegation 2 d) proven.

e) On one or more occasions between 2015 and 2018, had one or more inappropriate conversations with Pupil A in person and/or via WhatsApp;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez's initial arrest interview. The entry states Dr Garcia Rodriguez and Pupil A had "*long conversations about life and he would talk to her about relationships with other girls. This was mainly in person but they did communicate over whatsapp*".

The panel considered the [REDACTED] dated 13 January 2021 which referred to representations it had received from Dr Garcia Rodriguez and this concluded "[REDACTED]".

The panel considered the School's investigation meeting minutes dated 4 December 2019. The minutes state that Dr Garcia Rodriguez admitted, when asked if she engaged in conversations over WhatsApp with Pupil A, "*Yes, except I engaged in conversations over WhatsApp*".

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez's responses at this meeting.

Based on the evidence available, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez had one or more inappropriate conversations with Pupil A in person and via WhatsApp between 2015 and 2018, and the panel therefore found allegation 2 e) proven.

f) On an unknown date, you took Pupil A to a public house;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez's initial arrest interview. The entry confirms Dr Garcia Rodriguez "*stated that they did on occasions stop off at the pub on the way to dropping him home for a non-alcoholic drink. They would talk for a while about things whilst at the pub*".

The panel considered the School's investigation meeting minutes dated 4 December 2019. The minutes state that Dr Garcia Rodriguez admitted, when asked if she stopped at a pub on the way home with Pupil A, "*I had a cup of tea outside and sometimes took an orange juice. As we talked in the car and sometimes talked there. It was not any different to talking in the car. If anything, it was more open*".

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019, and confirmed the minutes were an accurate record of his recollection of Dr Garcia Rodriguez's responses at this meeting.

Based on the evidence available, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez admitted she had taken Pupil A to a public house, and the panel therefore found allegation 2 f) proven.

g) On an unknown date between January 2018 and May 2018, you discussed stockings with Pupil A and/or how female scientists should dress;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez's initial arrest interview. The entry confirms Dr Garcia Rodriguez was asked if she had ever asked Pupil A if she

should wear stockings and asked him if he would like that. Dr Garcia Rodriguez stated *“this was a jokey thing”* and *“she then used to joke with him liking stockings”*. The entry also states *“she thinks she may have told him that she wore stocking but the tights/everyday style rather than sexy stockings which he wouldn’t like”*.

The panel considered the School’s investigation meeting minutes dated 4 December 2019. The minutes state that Dr Garcia Rodriguez was asked about her submissions to the police and responded *“I remember the police asked this. The context was that at some point they were talking about the image of white girls and so they showed a picture of NCAC TV series lady with a punk rock style and the boys were impressed and talked about her”*. The investigation report further states that *“she had showed a picture of a female scientist from the NCIS TV programme, who stated dressed like a punk and wore stockings. She remarked that female scientists should dress like that and that this became a running joke with students”*.

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez’s responses at this meeting.

Based on the evidence available, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez had discussed stockings with Pupil A between January 2018 and May 2018, and the panel therefore found allegation 2 g) proven.

h) On an unknown date between January 2018 and May 2018, you gave Pupil A a sexually suggestive book called ‘The Reader’;

The panel considered the School’s investigation meeting minutes dated 4 December 2019. The minutes state that Dr Garcia Rodriguez admitted, when asked if she gave Pupil A a copy of a book about a [REDACTED] year old boy having a relationship with an older woman, *“He told me he hadn’t read it in the end when I asked him to return it”*. Dr Garcia Rodriguez confirmed that the book was called *“The Reading”*.

The panel was mindful of what weight should be applied to this hearsay evidence. However, the panel accepted the oral evidence of Witness A, who was present at the investigation meeting on 4 December 2019. Witness A confirmed in his oral evidence that the minutes were an accurate record of his recollection of Dr Garcia Rodriguez’s responses at this meeting.

Based on the evidence available, the panel was satisfied on the balance of probabilities that Dr Garcia Rodriguez was mistaken about the title of the book but she had given Pupil A a copy of the book, *‘The Reader’*, and the panel therefore found allegation 2 h) proven.

i) On one or more occasions between 2015 and 2018 used the phrase ‘love you’ or words to that effect in one or more communications with Pupil A;

The panel considered the occurrence details log from Thames Valley Police, in particular, an entry dated 24 May 2018 regarding Dr Garcia Rodriguez’s initial arrest interview. The entry confirms Dr Garcia Rodriguez stated *“she did say to him on occasions how she loved him, but this wasn’t in a romantic way but in a caring way like love for a son”*.

The panel further considered an entry dated 21 January 2020 regarding a police search of Dr Garcia Rodriguez’s work emails. The entry states they *“located emails dated on 28/04/16”* where Dr Garcia Rodriguez had sent an email request to a number of students asking them to provide her with a review of a School trip. She sent a generic response of *“Thank you :)”* to all students that replied apart from Pupil A where she replied *“Love you! ... and well done today, you are a star :)”*.

Although the panel had not seen a copy of the alleged email from Dr Garcia Rodriguez to Pupil A, the panel was satisfied that the police evidence was reliable and appropriate weight could be attached to this evidence.

The panel was satisfied on the balance of probabilities that on 28 April 2016, Dr Garcia Rodriguez used the phrase ‘love you’ or words to that effect in at least one email communication with Pupil A. The panel therefore found allegation 2 i) proven.

3. On or around 20 January 2020, received a Sexual Risk Order (“SRO”) from Oxford Magistrates Court pursuant to Section 122A of the Sexual Offences Act 2003.

The panel was provided with a copy of the Sexual Risk Order from the Oxford Magistrates’ Court. The Order set out that Dr Garcia Rodriguez was prohibited from *“having or attempting to have any communication with any male under the age of 18 years by web cam, telephone, text message, post, email, internet forum or in any other way save for the normal incidental and unavoidable contact or lawful daily life and save for immediate family members (extending to first cousins) and close friends. In relation to close friends then only with the consent of the child’s parent or guardian who is aware of the Sexual Risk Order”*.

The panel also considered the occurrence details log from Thames Valley Police, in particular, an entry dated 21 January 2020 regarding the Sexual Risk Order. The entry confirms *“Yesterday (20/01/20) there was a hearing at Oxford Magistrates Court. Solicitor acting on behalf of Garcia informed us that she was disputing the sexual act, but accepts the communication evidence and therefore accepted the Sexual Risk Order”*.

The order was dated 20 January 2020 and remained in place until 19 July 2023.

The panel was satisfied, on the balance of probabilities, that Dr Garcia Rodriguez received a Sexual Risk Order from Oxford Magistrates' Court on 20 January 2020 and therefore found allegation 3 proven.

4. By your conduct as set out above in one or more of the allegations, you:

a) failed to maintain professional boundaries;

The panel considered the evidence presented before it and concluded that due to the findings of fact that Dr Garcia Rodriguez had regular contact with Pupil A outside of School; the fact that she had provided him with a sexually suggestive book; the inappropriate messages she had sent to Pupil A and Pupil B; the fact she had driven Pupil A alone to or from School on a number of occasions, as well as to a public house and a secluded area and the inappropriate conversations she had engaged in with Pupil A, that she had failed to maintain appropriate professional boundaries.

The panel considered a written statement from Dr Garcia Rodriguez that she provided for the purpose of the School's disciplinary hearing on 24 January 2020. Dr Garcia Rodriguez stated "*I have reflected and I accept that the way I may have communicated with the students on occasions could be considered too familiar and crossing the professional boundary between teacher and student*".

The panel therefore found allegation 4 a) proven.

b) failed to act with integrity.

The panel considered whether Dr Garcia Rodriguez had failed to act with integrity by her conduct in allegations 1 and 2 a) to i) above. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*.

The panel was mindful that professionals are not expected to be "*paragons of virtue*". However, the panel considered that Dr Garcia Rodriguez had failed to adhere to the ethical standards of the teaching profession and she had failed to act within the higher standards expected of a teacher by her conduct as found proven at allegations 1 and 2 a) to i).

Dr Garcia Rodriguez's behaviour towards Pupil A and Pupil B, including inappropriate messages, driving Pupil A to School alone and to a secluded location and a public house, talking to Pupil A about stockings, inviting him and other pupils to a birthday celebration meal and having regular contact with Pupil A outside of School, demonstrated a failure to adhere to the ethical standards of his profession pursuant to the Wingate test.

The panel considered whether Dr Garcia Rodriguez driving Pupil A to and from School, sometimes alone, amounted to a failure to act with integrity. The panel noted the minutes from the position of trust meeting dated 28 August 2019 which stated "*Individual C*

[REDACTED] has made it clear in safeguarding presentation about not giving lifts to pupils...so it should have been clear to EGR and all staff this was not acceptable". In light of this evidence, the panel was satisfied that Dr Garcia Rodriguez was acting contrary to the School's safeguarding advice, and the panel therefore concluded that Dr Garcia Rodriguez's actions in driving Pupil A to and from School, sometimes alone, amounted to a failure to act with integrity.

The panel was satisfied that Dr Garcia Rodriguez's conduct as outlined at allegations 1 and 2 a) to i), and as found proven, lacked integrity. The panel therefore found allegation 4 b) proven.

5. Your conduct as set out in allegation 1 and/or 2(a) to (i), was sexually motivated.

The panel noted that throughout the evidence available Dr Garcia Rodriguez had denied that there was any sexual motivation behind her actions. The panel noted a written statement from Dr Garcia Rodriguez that she provided for the purpose of the School's disciplinary hearing on 24 January 2020. Dr Garcia Rodriguez admitted that her communications with students may have crossed professional boundaries but stated "*this is a great distance from having done or ever had the intention of doing any sort of sexual interaction with a minor*".

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 Dr Garcia Rodriguez's 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 further noted that in *General Medical Council v Haris [2021] EWCA Civ 763*, it was stated that, "*In the absence of a plausible innocent explanation for what he did, the facts spoke for themselves. A sexual motive was plainly more likely than not; I would go so far as to say that that inference was overwhelming.*"

The panel therefore considered whether a plausible innocent explanation for the conduct which they had found proven at allegations 1 and 2 a) to i) had been demonstrated by Dr Garcia Rodriguez.

The panel considered the explanations provided by Dr Garcia Rodriguez within the police log, that Dr Garcia Rodriguez said she treated Pupil A "*like an adoptive son*", and that when she said how she loved him "*this wasn't in a romantic way but in a caring way like love for a son*".

The panel did not consider that the explanations offered by Dr Garcia Rodriguez in respect of allegations 2 a) to i) were a “*plausible innocent explanation*”. The panel further noted that a lack of explanation in regards to allegation 1 meant that the messages to Pupil B could not have a “*plausible innocent explanation*”.

The panel noted that there were a number of factors with the contact between Dr Garcia Rodriguez and Pupil A that were akin to an intimate emotional relationship. The messages from Dr Garcia Rodriguez to Pupil B were very flirtatious, such as telling Pupil B he was “*good looking*”, discussing her “*sexy*” dress with “*long low cleavage*” and replying to Pupil B “*I bet you look properly hot in it :)*”.

The panel concluded that on the balance of probabilities and viewing the evidence as a whole, and in the absence of a plausible innocent explanation, Dr Garcia Rodriguez’s conduct as found proven at allegations 1 and 2 a) to i) was sexually motivated.

The panel therefore found allegation 5 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 Dr Garcia Rodriguez, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Dr Garcia Rodriguez was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher’s professional position
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, 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 Dr Garcia Rodriguez amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

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

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. The panel concluded that some of the allegations at 2 a) to i), based on the particulars found proved in respect of each allegation, may not have amounted to unacceptable professional conduct in isolation. However, as the panel found allegations 2 a) to i) to be sexually motivated, they amounted to unacceptable professional conduct, and the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

The panel noted that although allegations 1 and 2 a) to i) took place outside the education setting, they were relevant to Dr Garcia Rodriguez's role as a teacher as she was sending inappropriate messages to pupils, engaging in contact with Pupil A outside of School, inviting him to birthday celebrations and engaging in inappropriate conversations. Further, the panel found that this conduct was sexually motivated.

Accordingly, the panel was satisfied that Dr Garcia Rodriguez was guilty of unacceptable professional conduct.

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

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

The panel therefore found that Dr Garcia Rodriguez's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1, 2 a) to i), 3, 4 and 5 proved, the panel further found that Dr Garcia Rodriguez'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 punitive effect.

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

In the light of the panel's findings against Dr Garcia Rodriguez, which involved engaging in inappropriate communications with Pupil A and Pupil B, inviting Pupil A and others to a birthday dinner, driving Pupil A to School alone, to a public house and a secluded location, engaging in regular, inappropriate contact with Pupil A outside of School, both in person and via WhatsApp, giving Pupil A a sexually suggestive book and using the phrase "*love you*" in email communication with Pupil A, there was a strong public interest consideration in the safeguarding and wellbeing of pupils.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking

into account the effect that this would have on Dr Garcia Rodriguez. 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 Dr Garcia Rodriguez. 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- an 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;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- violation of the rights of pupils;
- ...other deliberate behaviour that undermines pupils, the profession, the school or colleagues;
- ...a lack of integrity...especially where these behaviours have been repeated...

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 Dr Garcia Rodriguez's actions were not deliberate.

There was no evidence that Dr Garcia Rodriguez was acting under extreme duress.

The panel considered Dr Garcia Rodriguez's experience in the disciplines of science, technology, engineering, and mathematics (STEM) and noted these are areas that are

traditionally underrepresented by females. However, the panel concluded that any public interest consideration in retaining Dr Garcia Rodriguez in the teaching profession was outweighed by the seriousness of the findings of misconduct against her.

The panel concluded that there was no evidence that Dr Garcia Rodriguez demonstrated exceptionally high standards in both personal and professional conduct or that she has contributed significantly to the education sector.

The panel noted that there was a lack of evidence of insight and remorse on the part of Dr Garcia Rodriguez. The panel was particularly concerned with Dr Garcia Rodriguez's responses in the School's investigation meeting on 4 December 2019 regarding safeguarding. In particular, when questioned about whether she received training on the statutory guidance in KCSIE, Dr Garcia Rodriguez stated "*I received a booklet which was given at the beginning of the year... Can't expect to give that at the start of term and to read and sign the book. It was unrealistic to read the book in three days*". Additionally, when questioned about whether she recorded any incidents on CPOMS, Dr Garcia Rodriguez stated "*No, I rarely have time to write reports*".

The panel further noted the written statement from Dr Garcia Rodriguez for the purpose of the disciplinary hearing on 24 January 2024 which showed a limited level of insight in respect of her inappropriate communications with pupils. She stated "*I have reflected and I accept that the way I may have communicated with the students on occasion could be considered too familiar and crossing the professional boundary between teacher and student. I have always acted with the intention of seeking to engage the students in science; however, I can see that I have on occasions gotten this wrong*".

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 Dr Garcia Rodriguez 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 Dr Garcia Rodriguez. The findings that Dr Garcia Rodriguez's conduct was sexually motivated and that her conduct had affected more than one pupil over a number of years was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of these behaviours includes serious sexual misconduct e.g. where the act was sexually motivated and any sexual misconduct involving a child. The panel found that Dr Rodriguez was responsible for engaging in inappropriate communications with Pupil A and Pupil B, inviting Pupil A and others to a birthday dinner, driving Pupil A to School alone, to a public house and a secluded location, engaging in regular, inappropriate contact with Pupil A outside of School, both in person and via WhatsApp, giving Pupil A a sexually suggestive book and using the phrase “love you” in email communication with Pupil A, and all of these allegations were sexually motivated.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. The panel found none of these behaviours to be relevant.

The panel decided that the findings indicated a situation in which a review period would not be appropriate due to the distinct lack of evidence of any insight and remorse on behalf of Dr Garcia Rodriguez, as well as her failure to provide any evidence in mitigation of her actions. The panel were also concerned about the findings that Dr Garcia Rodriguez’s actions had occurred over a significant period of time between 2009 and 2018. As such, the panel 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 Dr Garcia Rodriguez should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Dr Garcia Rodriguez is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
 - showing tolerance of and respect for the rights of others
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, 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 Dr Garcia Rodriguez, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

The panel finds that the conduct of Dr Garcia Rodriguez fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of inappropriate communications with pupils and sexually motivated conduct.

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 Dr Garcia Rodriguez 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. The panel has observed, "In the light of the panel's findings against Dr Garcia Rodriguez, which involved engaging in inappropriate communications

with Pupil A and Pupil B, inviting Pupil A and others to a birthday dinner, driving Pupil A to School alone, to a public house and a secluded location, engaging in regular, inappropriate contact with Pupil A outside of School, both in person and via WhatsApp, giving Pupil A a sexually suggestive book and using the phrase “*love you*” in email communication with Pupil A, there was a strong public interest consideration in the safeguarding and wellbeing of pupils.” 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 there was a lack of evidence of insight and remorse on the part of Dr Garcia Rodriguez. The panel was particularly concerned with Dr Garcia Rodriguez’s responses in the School’s investigation meeting on 4 December 2019 regarding safeguarding. In particular, when questioned about whether she received training on the statutory guidance in KCSIE, Dr Garcia Rodriguez stated “*I received a booklet which was given at the beginning of the year...Can’t expect to give that at the start of term and to read and sign the book. It was unrealistic to read the book in three days*”. Additionally, when questioned about whether she recorded any incidents on CPOMS, Dr Garcia Rodriguez stated “*No, I rarely have time to write reports*”. In my judgement, the lack of insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Dr Garcia Rodriguez was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of sexual motivated behaviour 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 Dr Garcia Rodriguez herself and the panel comment “The panel considered Dr Garcia Rodriguez’s experience in the disciplines of science, technology, engineering, and mathematics (STEM) and noted

these are areas that are traditionally underrepresented by females. However, the panel concluded that any public interest consideration in retaining Dr Garcia Rodriguez in the teaching profession was outweighed by the seriousness of the findings of misconduct against her.”

A prohibition order would prevent Dr Garcia Rodriguez from teaching. A prohibition order would also clearly deprive the public of her contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the lack of insight or remorse. The panel has said, “The panel further noted the written statement from Dr Garcia Rodriguez for the purpose of the disciplinary hearing on 24 January 2024 which showed a limited level of insight in respect of her inappropriate communications with pupils. She stated *“I have reflected and I accept that the way I may have communicated with the students on occasion could be considered too familiar and crossing the professional boundary between teacher and student. I have always acted with the intention of seeking to engage the students in science; however, I can see that I have on occasions gotten this wrong”*.

I have also placed considerable weight on the finding that “The panel decided that the public interest considerations outweighed the interests of Dr Garcia Rodriguez. The findings that Dr Garcia Rodriguez’s conduct was sexually motivated and that her conduct had affected more than one pupil over a number of years was a significant factor in forming that opinion.”

I have given less weight in my consideration of sanction therefore, to the contribution that Dr Garcia Rodriguez 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 that no provision should be made for a review period.

I have considered the panel’s comments “The panel decided that the findings indicated a situation in which a review period would not be appropriate due to the distinct lack of evidence of any insight and remorse on behalf of Dr Garcia Rodriguez, as well as her failure to provide any evidence in mitigation of her actions. The panel were also concerned about the findings that Dr Garcia Rodriguez’s actions had occurred over a significant period of time between 2009 and 2018. As such, the panel decided that it

would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.”

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 seriousness of the findings and the lack of insight or remorse.

I consider therefore that allowing for no review period is necessary to maintain public confidence and is proportionate and in the public interest.

This means that Dr Garcia Rodriguez 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 her, I have decided that Dr Garcia Rodriguez shall not be entitled to apply for restoration of her eligibility to teach.

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

Dr Garcia Rodriguez has a right of appeal to the King’s Bench Division of the High Court within 28 days from the date she is given notice of this order.

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

Decision maker: Sarah Buxcey

Date: 30 May 2024

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