



Teaching
Regulation
Agency

Mr Steven Millar: Professional conduct panel outcome

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

March 2024

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

Teacher:	Mr Steven Millar
Teacher ref number:	1135120
Teacher date of birth:	10 August 1989
TRA reference:	20372
Date of determination:	8 March 2024
Former employer:	Cheltenham Bournside School, Cheltenham

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 7 to 8 March 2024 by way of a virtual hearing, to consider the case of Mr Steven Millar.

The panel members were Mr Martyn Stephens (lay panellist – in the chair), Mrs Elizabeth Pollitt (teacher panellist) and Mrs Beverley Williams (teacher panellist).

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

The presenting officer for the TRA was Mr Lee Bridges of Kingsley Napley LLP solicitors.

Mr Millar was 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 19 December 2023, as amended by application during the course of the hearing.

It was alleged that Mr Millar was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher at Cheltenham Bournside School and Sixth Form Centre:

1. Between on or around 25 January 2021 and 26 January 2021, after an individual identified themselves as a 14-year-old female, he engaged in communication of a sexual nature with the individual; whereby he stated:
 - a) "Make me hard xx"
 - b) "Show me a pic xx"
2. Between on or around 25 January 2021 and 26 January 2021, after the individual stated that they were 14 years' old, he made no attempt to confirm with the individual whether they were over 18 years' old.
3. On or around 28 September 2021, he stated that he had an interest in 'age-play';
4. His conduct at paragraph 1 and/or 2 was sexually motivated.

Mr Millar denied the allegations as set out in the response to the notice of proceedings.

Preliminary applications

Application for part of the hearing to be heard in private

The panel considered an application from the teacher that part of the hearing [REDACTED] should be heard in private.

The panel heard submissions from the teacher on the application before reaching its decision. The presenting officer did not object to the application.

The panel granted the application. The panel considered it was not contrary to the public interest for the part of the hearing, which was the subject of the application, to be heard in private.

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

Application to amend allegations

After both parties' evidence had been concluded, the panel raised a question regarding the reference of Mr Millar's conduct at paragraph 3 being included at allegation 4. The presenting officer subsequently made an application to amend allegation 4 to remove the wording "*and/or 3*" so that allegation 4 would read "*your conduct at paragraph 1 and/or 2 was sexually motivated.*"

Mr Millar did not object to the application.

The panel was advised that it had the power to amend allegations in accordance with paragraph 5.83 of the 2020 Procedures.

The panel considered that the proposed amendments would not change the nature and scope of the allegation and instead sought to clarify the case brought against Mr Millar. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations.

The legal adviser drew the panel's attention to the case of *Dr Bashir Ahmedsowida v General Medical Council [2021] EWHC 3466 (Admin), 2021 WL 06064095* which held that the lateness of amendments did not necessarily mean they were unjust, as acknowledged in the previous case of *Professional Standards Authority v Health and Care Professions Council and Doree [2017] EWCA Civ 319 at [56]*.

Accordingly, the panel granted this application and considered the amended allegation, which is set out above.

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 3 to 4
- Section 2: Notice of proceedings and response – pages 5 to 18
- Section 3: TRA witness statements – pages 19 to 21
- Section 4: TRA documents – pages 22 to 157
- Section 5: Teacher's response – page 158

Witnesses

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

- Witness A

The panel also heard oral evidence from Mr Millar.

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 1 September 2016, Mr Millar commenced employment at Cheltenham Bournside School and Sixth Form Centre ('the School').

Between 25 and 26 January 2021, Mr Millar communicated with a person who had confirmed that they were aged 14 (but was actually an undercover operative) on an instant messaging platform, Chatiw. On 11 March 2021, Mr Millar was subsequently arrested on suspicion of sexual communication with a child aged 14 on an instant messaging platform.

Around 20 September 2021, the police concluded their investigation and found there to be no further action. Later that month, a disciplinary investigation was carried out and, on 20 October 2021, a disciplinary hearing with Mr Millar was held.

On 1 November 2021, Mr Millar ceased employment at the School.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proved, for these reasons:

- 1. Between on or around 25 January 2021 and 26 January 2021, after an individual identified themselves as a 14-year-old female, you engaged in communication of a sexual nature with the individual; whereby you stated:**
 - a) "Make me hard xx"**
 - b) "Show me a pic xx"**

The panel noted that during the hearing Mr Millar admitted to allegation 1(a) in its entirety. Mr Millar also admitted to stating, "*show me a pic xx*", however, did not admit

that this communication was of a sexual nature. Notwithstanding Mr Millar's admission, the panel made a determination on the evidence available to it.

The panel had sight of the messages between the teacher and undercover operative in the bundle. The messages on 25 January 2021 read as follows:

Mr Millar: *Heya xx*

Undercover operative: *"hey im dais nd 14 fm Aylesbury x"*

Mr Millar: *"Cool x"*

Mr Millar: *"what do you look like x"*

Undercover operative: *"umm I got dirthy blonde hair tht needs cutting bad ne bluey iz n dim kinda pretty lol wbu"*

Mr Millar: *"Make me hard xx"*

Mr Millar: *"Show me a pic xx"*

Mr Millar: *"lighthouse brown hair blue eyes"*

Undercover operative: *"only gpt pics on my fone soz x"*

Mr Millar: *"What's ur snap"*

Undercover operative: *"I dnt hve it ne more [redacted]"*

Undercover operative: *"[redacted]"*

Undercover operative: *"[redacted]"*

Mr Millar: *"I've text you"*

The messages continued by text on 25 January 2021 between 14:22 and 14:32 and ended with the undercover operative asking Mr Millar whether he was a really a teacher.

The undercover operative sent a further message on 26 January 2021 at 09:18: *"Hellloooooo lol"*.

The panel noted that it was clear from the messages that the individual had identified themselves as a 14-year-old called *"Dais"*.

The panel further noted that the messages show Mr Millar saying, *"Make me hard xx"* and *"Show me a pic xx"*.

The panel went on to consider whether these communications were of a sexual nature. The panel noted the oral evidence of Mr Millar where he confirmed that when he stated “*Make me hard xx*” this was in reference to him having an erection. The panel considered that it was clear that this communication was of a sexual nature.

The panel next considered the statement “*Show me a pic xx*”. The panel noted the evidence contained in the bundle and Mr Millar’s oral evidence that he was asking for a facial picture to see what the individual looked like. The panel noted that Mr Millar had confirmed in his oral evidence that the conversation took place over a matter of minutes and considered the message that had been sent immediately prior (“*Make me hard xx*”). The panel therefore concluded that, on the balance of probabilities, the communication “*Show me a pic xx*” was of a sexual nature.

The panel found allegations 1(a) and 1(b) proven.

2. Between on or around 25 January 2021 and 26 January 2021, after the individual stated that they were 14 years’ old, you made no attempt to confirm with the individual whether they were over 18 years’ old.

The panel noted that during the hearing Mr Millar admitted to allegation 2 in its entirety. Notwithstanding Mr Millar’s admission, the panel made a determination on the evidence available to it.

The panel had sight of the messages between the teacher and the undercover operative contained in the bundle. The panel considered the messages on 25 January 2021, referenced above, where the individual identified themselves as being 14 years’ old. The panel noted that Mr Millar responded “*Cool x*” to this message.

The panel considered the statement provided by Mr Millar as part of the police investigation. Mr Millar stated that he never knowingly made contact with any person under the age of 18 and due to his interest in age-play and the disclaimer on the site, he made the assumption that any persons he was in contact with on the site would also be over the age of 18.

The panel noted the Chatiw End User Licence Agreement and noted that you must be 18 years of age or older to use the Chatiw service. However, the panel also noted within this agreement it made clear that information provided by Chatiw members may be inaccurate.

The panel concluded that it was clear from messages between the undercover operative and Mr Millar that, after the individual stated they were 14 years’ old, he had never made any further checks to confirm whether the individual was over 18 years’ old.

The panel found allegation 2 proven.

3. On or around 28 September 2021, you stated that you had an interest in ‘age-play’;

The panel noted that at the outset of the hearing Mr Millar denied this allegation due to an assertion that he had not made the statement on that particular date. During Mr Millar’s oral evidence, he was taken to the notes of the investigation interview dated 28 September 2021, contained in the bundle, and subsequently admitted the allegation in its entirety. Notwithstanding Mr Millar’s admission, the panel made a determination on the evidence available to it.

The panel considered the notes of the investigation interview dated 28 September 2021. Mr Millar explained that his listed interests had included interactions with adult transsexuals and age play. Mr Millar was asked whether this meant adults pretending to be children, to which he stated that they were not pretending to be children, rather people pretending to be different from their actual age. He stated that the actual age was always 18 or over so it was legal.

The panel also considered the witness statement of Witness A who stated that she conducted an interview with Mr Millar on the 28 September 2021 as part of the School’s investigation.

The panel found allegation 3 proven.

4. Your conduct at paragraph 1 and/or 2 was sexually motivated.

The panel noted that during the hearing Mr Millar admitted that his conduct at paragraph 1(a) was sexually motivated. However, Mr Millar denied that his conduct at paragraph 1 (b) or 2 was sexually motivated. Notwithstanding Mr Millar’s admission, the panel made a determination on the evidence available to it.

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

The panel considered whether the conduct was sexually motivated. It noted guidance from Basson that: “A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship”. It also noted Haris, in which the High Court indicated that the criteria in Basson set the bar too high. Foster J stated:

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

“Of course, there are significant differences in the context and the analogy is not exact, but it does seem to me that pleading ‘sexual motivation’ is unhelpful. Similarly to look for ‘sexual gratification’ may be misleading or overcomplicating. It is irrelevant to the actions which the GMC would wish to proscribe whether or not the perpetrator was sexually ‘gratified’ at all – whether before, after or during the act in question. Gratification, as with ‘pursuit of a relationship’ are, pace the analysis of Mostyn J in Basson, not helpful in my judgement in promoting the public interests at stake here. These criteria set the bar too high and I respectfully disagree that they represent the law”.

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

The panel considered Mr Millar’s conduct at paragraph 1 and 2 in turn:

Paragraph 1 (a)

The panel considered the evidence available to it, including Mr Millar’s oral evidence which confirmed that when he made the statement *“Make me hard xx”* he was referring to having an erection. The panel concluded that it was unquestionable that Mr Millar’s conduct at paragraph 1 (a) was sexually motivated.

Paragraph 1 (b)

The panel considered the oral evidence of Mr Millar which confirmed that when stating *“Show me a pic xx”* he was requesting a picture of the individual’s face.

The panel noted that during the messages, prior to requesting a picture, Mr Millar had asked what the individual looked like. The undercover operative responded *“umm I got dirty blonde hair tht needs cutting bad ne bluey iz n dim kinda pretty lol wbu”*. The panel considered that had Mr Millar wanted a picture of the individual’s face, to ascertain what she looked like, he would have done so explicitly. The proximity of the picture request to Mr Millar’s message *“Make me hard xx”* gave the panel grounds to disregard Mr Millar’s explanation.

The panel noted that from the evidence available, it was clear that the conversation took place over a short period of time. The panel was of the view that the conversation undoubtedly flowed from Mr Millar making a sexually motivated comment, *“Make me hard xx”*, to requesting a picture of the individual.

Therefore, the panel considered Mr Millar’s explanation to be implausible in the context of the conversation. The panel concluded that on the balance of probabilities, and in the

absence of a plausible innocent explanation, Mr Millar's conduct at paragraph 1(b) was sexually motivated.

Paragraph 2

The panel considered the oral evidence of Mr Millar.

Mr Millar stated that it was clear from the Chatiw End User Licence Agreement, which the panel had sight of, that members of Chatiw are required to be aged 18 or over.

Mr Millar further stated that he assumed that he was communicating with people over the age of 18 at all times. Mr Millar asserted when the undercover operative confirmed that they were 14 he was [REDACTED] and it was an oversight not to have checked the individual's age. Mr Millar further stated, with a [REDACTED], he would step back and ask the question or depart from the conversation.

The panel concluded that on the balance of probabilities, despite Mr Millar's oral evidence regarding his [REDACTED] at the time the messages were sent, his failure to check the undercover operative's age was not an oversight. The panel considered that Mr Millar could have clarified the position regarding the individual's age but due to his expressed interest in age-play he chose not to and instead chose to continue messaging.

The panel therefore concluded, in the absence of a plausible innocent explanation, Mr Millar's conduct at paragraph 2 was sexually motivated.

The panel found allegation 4 proven.

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

Having found all 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 Millar, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Millar 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
 - Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel had sight of an extract from the crime report which confirmed that, although prosecution was not a proportionate response, safeguarding was key. The panel also noted the witness statement of Witness A, which stated that although no further action was taken by the police, they stated that safeguarding was a key concern.

The panel noted the oral evidence of Mr Millar which confirmed that online safeguarding training was normally provided at the beginning of the academic year, however, he could not confirm whether he completed this in September 2020. Mr Millar also confirmed that he had undertaken a middle leadership course and been accepted onto a senior leadership course, although this had been disrupted due to Covid-19.

The panel noted the witness statement of Witness A which confirmed Mr Millar's training record and confirmed that he had undertaken "Safeguarding – annual KCSiE and other statutory training" every September and "National College Safeguarding and Prevent annual Certificate" every year.

The panel also had sight of the School's Code of Professional Conduct which stated that "*Staff, trustees and volunteers must not have sexual relationships with students, have any form of communication with a child or young person which could be interpreted as sexually suggestive or provocative...*" The Code of Professional Conduct later states that "*Staff are advised not to have any online friendships with young people under the age of 18, unless they are family members or close family friends.*"

During Mr Millar's oral evidence, he confirmed that he was aware that this Code of Professional Conduct was in place and would have read it when he joined the School in 2016, but he did not believe that he had read it since.

The panel considered that that Mr Millar should have been aware of what was expected of him in his role of a teacher. The panel was of the view that, given the age of students that Mr Millar was teaching and the training he had received, it was unrealistic for Mr Millar not to be aware that children can falsify their age to gain access to websites such as Chatiw. The panel also noted the oral evidence of Mr Millar which confirmed that to access Chatiw there was a drop-down box where you selected your age. The panel

considered Mr Millar should have been aware that no further checks were done to certify the individual's age.

The panel concluded that it was implausible for Mr Millar to have simply been "naïve", as he suggested during his oral evidence, to assume that all individual's accessing the site would be over the age of 18 and not to have made any further checks.

The panel noted that Mr Millar's conduct was sexually motivated and that he had used language of a sexual nature despite the individual confirming that they were 14 years' old. The panel considered that Mr Millar failed to clarify whether the individual was over 18 years old and, due to his expressed interest in age play, he chose to continue to send messages of a sexual nature. The panel considered that Mr Millar's conduct fell far short of the standards expected of him as a teacher.

The panel noted that the allegations 1(a), 1(b), 2 and 4 took place outside the education setting. The panel considered that Mr Millar was teaching pupils of a similar age to what the undercover operative had identified herself as being on Chaitiw and had not made any further checks to ascertain whether they were over the age of 18 years' old. The panel also noted that Mr Millar's profile name on Chaitiw, "Teach on free" identified him as being a teacher. Therefore, the panel considered that the conduct was intrinsically linked to his profession as a teacher and his role that he was undertaking at the time.

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

Although the offence of sexual communication with a child is listed on page 12 of the Advice, Mr Millar had in fact been communicating with an undercover operative who was over the age of 18. However, the panel considered it pertinent that the undercover operative had told Mr Millar they were 14 years' old, and Mr Millar had continued to send messages of a sexual nature. The panel was therefore of the view that, despite the undercover operative being over the age of 18, there had been an attempt by Mr Millar to sexually communicate with a child as he had been told that the individual was 14 years' old.

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

Accordingly, the panel was satisfied that Mr Millar 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 considered the impact on what parents and/or the wider public would think of the type of conduct committed by Mr Millar and were of the view that they would be deeply concerned. The panel considered that any parent would be extremely worried that Mr Millar had used language of a sexual nature to an individual who had just stated they were 14 years old.

The panel noted the oral evidence of Mr Millar which confirmed that he taught pupils at KS4 and KS5 which means that he would have been teaching pupils that were in a similar age group to what the undercover operative had confirmed she was on 25 January 2021.

The panel noted that pupils must be able to view teachers as role models and considered that this type of conduct was not what is expected from a role model. The panel considered that Mr Millar's conduct does not set the correct example for pupils that may be looking up to him.

The panel noted that the allegations 1(a), 1(b), 2 and 4 took place outside the education setting. However, the panel was of the view that the conduct displayed by Mr Millar was of a serious nature involving using sexualised language to an individual who had confirmed they were 14 years old. For this reason, and for the reasons set out above, the panel concluded this conduct would likely have a negative impact on the public's perception of the individual as a teacher, therefore bring the teaching profession into disrepute.

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

Having found the facts of allegations 1(a), 1(b), 2, 3 and 4 proved, the panel further found that Mr Millar's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct and conduct that may bring the profession into disrepute, it was necessary for the panel to go on to

consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

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

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

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

- the safeguarding and wellbeing of pupils and the protection of other members of the public;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct;
- that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

In the light of the panel's findings against Mr Millar, which involved engaging in sexual communication with an individual who identified themselves as a 14 year old; making no attempt to confirm with the individual whether they were over 18 years old, stating that he had an interest in age-play and conduct that was sexually motivated, there was a strong public interest consideration in the safeguarding and wellbeing of pupils and the protection of other members of the public.

The Presenting Officer referred the panel to the case of *Bolton v Law Society [1994] 1 W.L.R. 512* in which it was stated "*A profession's most valuable asset is its collective reputation and the confidence which that inspires.*" The panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Millar 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 Millar was outside that which could reasonably be tolerated.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Millar. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Millar. 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;
- 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).

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

There was no evidence that Mr Millar's actions were not deliberate. The panel noted that Mr Millar had accessed Chatiw and no evidence was provided to suggest that Mr Millar had not deliberately sent messages of a sexual nature to the undercover operative who had confirmed that they were 14 years old. The panel also noted that there was evidence to demonstrate that Mr Millar had openly expressed an interest in age-play on a number of occasions including on 28 September 2021.

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

There was no evidence that Mr Millar demonstrated exceptionally high standards in both personal and professional conduct or has contributed significantly to the education sector. The panel considered the oral evidence of Mr Millar which confirmed that he had undertaken a middle leadership course before moving onto the senior leadership course albeit this was disrupted due to Covid-19. The panel also noted the oral evidence of Witness A where she accepted that it would be fair to say Mr Millar was a good teacher as he had been accepted onto the senior leadership course. Although the panel accepted that this was evidence of Mr Millar's career as a good teacher, the panel did not consider the evidence demonstrated exceptionally high standards of personal and professional conduct or a significant contribution to the education sector.

The panel noted that Mr Millar had engaged fully and co-operated with the police investigation and with these proceedings.

The panel noted the comments contained in the closing statement provided by Mr Millar as part of the disciplinary hearing which stated that *“Mr Millar deeply regrets being involved in a matter that has given the school cause for concern and he apologises for any problems caused by his actions”*. The panel also noted the oral evidence of Mr Millar which confirmed that he has since [REDACTED]. Although there was no documentary evidence of this, the panel were of the view that Mr Millar obtaining [REDACTED] suggests that he has insight into his wrongdoing.

The panel also noted that Mr Millar spoke openly about wanting to be [REDACTED].

For the reasons set out above, the panel was of the view that there was a level of insight and remorse on the part of Mr Millar.

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 Millar 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 Millar. The seriousness and nature of the conduct 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 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 that none of these behaviours were relevant.

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the

potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons and any sexual misconduct involving a child.

The panel first noted that Mr Millar had in fact been communicating with an undercover operative who was over the age of 18. However, the panel considered it pertinent that the undercover operative had told Mr Millar they were 14 years' old, and Mr Millar had continued to send communications of a sexual nature.

In particular, the panel was of the view that it was extremely concerning that Mr Millar had, after being told that the individual was 14 years' old, requested a picture from them with such request being sexually motivated.

The panel was therefore of the view that, despite the undercover operative being over the age of 18, Mr Millar had been told the individual was 14 years' old and had continued to sexually communicate with the individual on that basis. The panel therefore concluded that this could have had the potential to result in harm.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

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

In particular, the panel has found that Mr Millar 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach.
 - Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

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

The findings of misconduct are particularly serious as they include a finding of sexual communication with an individual who identified themselves as a 14-year-old female.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Millar, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "the panel considered it pertinent that the undercover operative had told Mr Millar they were 14 years old, and Mr Millar had continued to send messages of a sexual nature. The panel was therefore of the view that, despite the undercover operative being over the age of 18, there had been an attempt by Mr Millar to sexually communicate with a child as he had been told that the individual was 14 years old." The panel has also observed, "The panel was of the view that, given the age of students that Mr Millar was teaching and the training he had received, it was unrealistic for Mr Millar not to be aware that children can falsify their age

to gain access to websites such as Chatiw.” 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. The panel has said, “The panel noted the comments contained in the closing statement provided by Mr Millar as part of the disciplinary hearing which stated that *“Mr Millar deeply regrets being involved in a matter that has given the school cause for concern and he apologises for any problems caused by his actions”*. The panel also noted the oral evidence of Mr Millar which confirmed that he has since [REDACTED]. Although there was no documentary evidence of this, the panel were of the view that Mr Millar obtaining [REDACTED] suggests that he has insight into his wrongdoing.” The panel has therefore taken the view that “there was a level of insight and remorse on the part of Mr Millar.” I have therefore given this element some weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed, “any parent would be extremely worried that Mr Millar had used language of a sexual nature to an individual who had just stated they were 14 years old.” It has concluded that his “conduct would likely have a negative impact on the public’s perception of the individual as a teacher, therefore bring the teaching profession into disrepute.” I am particularly mindful of the finding of sexual communication with an individual who identified themselves as a 14-year-old and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Millar himself. The panel has commented, “There was no evidence that Mr Millar demonstrated exceptionally high standards in both personal and professional conduct or has contributed significantly to the education sector. The panel considered the oral evidence of Mr Millar which confirmed that he had undertaken a middle leadership course before moving onto the senior leadership course albeit this was disrupted due to Covid-19. The panel also noted the oral evidence of Witness A where she accepted that it would be fair to say Mr Millar was a good teacher as he had been accepted onto the senior leadership course. Although the panel accepted that this was evidence of Mr Millar’s career as a good teacher, the panel did not consider the evidence demonstrated exceptionally high

standards of personal and professional conduct or a significant contribution to the education sector.”

A prohibition order would prevent Mr Millar from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments concerning the seriousness and nature of Mr Millar’s conduct. The panel has said, “In the light of the panel’s findings against Mr Millar, which involved engaging in sexual communication with an individual who identified themselves as a 14 year old; making no attempt to confirm with the individual whether they were over 18 years old, stating that he had an interest in age-play and conduct that was sexually motivated, there was a strong public interest consideration.”

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Millar 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, 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.

The panel has noted that the Advice says behaviours that militate against the recommendation of a review period “include serious sexual misconduct, such as where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons and any sexual misconduct involving a child.”

I have considered the panel’s comments, “The panel was therefore of the view that, despite the undercover operative being over the age of 18, Mr Millar had been told the individual was 14 years old and had continued to sexually communicate with the individual on that basis. The panel therefore concluded that this could have had the potential to result in harm.” The panel has also found that “it was extremely concerning that Mr Millar had, after being told that the individual was 14 years old, requested a picture from them with such request being sexually motivated.”

I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements

are the serious nature of the allegations that the panel has found proved, and the safeguarding and wellbeing of pupils and the protection of other members of the public.

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

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

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

A handwritten signature in black ink, appearing to read 'D Oatley', with a large, sweeping flourish at the end.

Decision maker: David Oatley

Date: 13 March 2024

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