



Teaching  
Regulation  
Agency

# **Mr Lewis Fitchett: 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 Lewis Fitchett

**Teacher ref number:** 1559361

**Teacher date of birth:** 20 September 1989

**TRA reference:** 21557

**Date of determination:** 5 July 2024

**Former employer:** [REDACTED]

### Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4 to 6 March 2024 (“Part 1 of the Hearing”) and 4 to 5 July 2024 (“Part 2 of the Hearing”), by virtual means, to consider the case of Mr Lewis Fitchett.

The panel members were Mr Gamel Byles (teacher panellist in the chair), Dr Lee Longden (former teacher panellist) and Ms Katie Dent (lay panellist).

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

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

Mr Fitchett was initially present and was represented by Mr Lee Betchley in Part 1 of the Hearing. Following an application to proceed in the absence of Mr Fitchett on the third day of Part 1 of the Hearing, the remainder of the hearing proceeded without Mr Fitchett. Mr Fitchett was represented by Individual A in Part 2 of the hearing.

The hearing took place partially in public and partially in private. The hearing was recorded.

## **Allegations**

The panel considered the allegations set out in the notice of proceedings dated 15 December 2023

It was alleged that Mr Fitchett was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a teacher at [REDACTED]:

1. On or around 26 May 2022, he:
  - a. kissed and/or attempted to kiss Pupil A;
2. Between November 2021 and May 2022, he acted in an inappropriate manner towards Pupil A in that he:
  - a. gave Pupil A gift(s);
  - b. exchange communication of a personal nature;
3. His conduct at paragraph 1.a. and/or 2.a. and/or 2.b. was sexually motivated.

Mr Fitchett denied the allegations save that he admitted giving Pupil A two pairs of socks in May 2022 as a leaving gift and having exchanged communications of a personal nature with Pupil A.

Mr Fitchett denied that he is guilty of unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Preliminary applications**

There were no preliminary applications at the outset of the hearing.

A case management hearing had previously made the following directions:

- a) That special measures be permitted in respect of Pupil A; namely that Mr Fitchett join the hearing by telephone while Pupil A is giving evidence so that Pupil A cannot see him via the video-link, and so that Mr Fitchett cannot see Pupil A;
- b) That Mr Fitchett should not be entitled to cross-examine Pupil A directly, but only through a representative (either instructed by himself, or instructed by the TRA on his behalf);
- c) A witness supporter should be permitted to attend the hearing alongside Pupil A;
- d) Pupil A's evidence should be heard in private; and/or
- e) Pupil A's written evidence can be adduced as hearsay evidence in the event that Pupil A does not attend the professional conduct panel hearing to give live evidence.

## **Application for a supporter to attend with Mr Fitchett for the duration of the evidence of Pupil A**

At the end of the first day of Part 1 of the Hearing, Mr Fitchett's representative made an application for Mr Fitchett's parents to be present alongside Mr Fitchett to support him as Mr Fitchett would be attending via telephone whilst Pupil A's evidence was to be given in private.

The presenting officer responded to the application stating that it would be a matter for the panel to decide, but asked that if the application was allowed, Mr Fitchett's parents should be excluded for any portions of Pupil A's evidence in which her own health or confidential matters were to be discussed.

The panel considered the medical evidence that Mr Fitchett's representative had directed it to within the bundle. The panel considered that the measure was a reasonable one given that they would not be able to observe Mr Fitchett whilst he was attending by telephone. The panel therefore acceded to the application and directed that Mr Fitchett's parents only speak if they considered that Mr Fitchett required an adjournment at any time. The panel also directed that Mr Fitchett's parents would be asked to temporarily withdraw from the room if any matters relating to Pupil A's own health or other confidential matters were to arise during her evidence.

## **Exclusion of the Public**

Whilst there was no preliminary application at the outset of the hearing, the panel decided to exclude the public for portions of the hearing in which confidential matters relating to Mr Fitchett's health were to be discussed.

## **Proceeding in Absence**

During the second day of Part 1 of the Hearing, after the conclusion of Pupil A's evidence, Mr Fitchett's representative made an application to proceed in Mr Fitchett's absence. His client had experienced health issues and was no longer present. This application was subsequently withdrawn as Mr Fitchett's representative had concerns as to whether he had Mr Fitchett's authority to make the application. The panel decided to adjourn the hearing for the remainder of the day in order that the position regarding Mr Fitchett's health could be ascertained and for his representative to clarify his instruction.

Mr Fitchett initially attended the third day of Part 1 of the Hearing but became absent a short way through the presenting officer's cross examination of Mr Fitchett's evidence. Mr Fitchett's representative then applied for the hearing to proceed in Mr Fitchett's absence, confirming that he had instructions from Mr Fitchett to make the application.

The presenting officer had no representations in response to the application save to say that it was a matter for the panel.

In this case there was no issue as to whether the notice of proceedings had been effectively served since Mr Fitchett has been in attendance for at least part of the first three hearing days. The panel therefore considered whether to exercise its discretion under paragraph 5.47 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the "Procedures") whether to proceed with the hearing in the absence of Mr Fitchett.

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

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

This application was made by Mr Fitchett's representative after Mr Fitchett [REDACTED] he felt unable to continue. [REDACTED]. No adjournment was sought [REDACTED.] To the contrary, his legal representative sought for the hearing to continue in Mr Fitchett's absence. The panel recognised that there may be an advantage to Mr Fitchett in having this matter concluded. [REDACTED]

[REDACTED]

The panel had the benefit of a witness statement made by Mr Fitchett and the evidence he relied upon. The panel was therefore able to ascertain the lines of defence. Mr Fitchett's representative and the panel had had the opportunity to question the witnesses called by the presenting officer.

The panel recognised that the allegations against Mr Fitchett were serious and that there was a real risk that if proven, the panel would be required to consider whether to recommend that Mr Fitchett ought to be prohibited from teaching. The panel also recognised that the efficient disposal of allegations against teachers is required to ensure the protection of pupils and to maintain confidence in the teaching profession. The College at which Mr Fitchett taught and Pupil A would have interests in this hearing concluding in order to move forward.

The panel noted that there were no further witnesses to be called and therefore the effect of delay on the memories of witnesses was not a factor to be taken into consideration in this case.

In light of Mr Fitchett's clear waiver of his right to appear, and given the interests of this hearing concluding within a reasonable time, the panel decided to proceed with the hearing in the absence of Mr Fitchett.

At Part 2 of the Hearing, Mr Fitchett was no longer represented by Mr Betchley and was instead represented by [REDACTED]. Evidence was adduced confirming that Mr Fitchett had authorised [REDACTED] to represent him. Mr Fitchett was not present. Mr Fitchett's [REDACTED] confirmed that it was [REDACTED] wish for the hearing to continue in his absence [REDACTED]. The panel considered that Mr Fitchett had had the benefit of legal representation in Part 1 of the Hearing, so was aware of the implications of his non-attendance. At this stage of the hearing, having heard closing arguments and the panel having deliberated upon its findings, there was no longer any disadvantage in Mr Fitchett not being able to give his account of events, but the panel took account that Mr Fitchett would not be able to give evidence himself in mitigation. Given the interests of this hearing concluding, the panel was content to continue in the absence of Mr Fitchett. Mr Fitchett's representative for the remainder of the hearing was not a legal representative. In those circumstances, the panel and legal adviser would provide support in respect of the applicable procedures and factors to be taken into consideration when considering sanction, to enable Mr Fitchett's mitigation to be presented.

### **Effect on the status of Mr Fitchett's evidence**

The presenting officer confirmed he had no objection to Mr Fitchett's witness statement being admitted as evidence, However, the presenting officer made representations that the fact that Mr Fitchett's oral evidence had not been fully tested under cross-examination was a matter that the panel should take into account when considering the weight to attach to his evidence.

The panel considered that it was fair to admit the written evidence of Mr Fitchett without the opportunity for his cross-examination to be concluded. In due course, the panel would receive a hearsay warning before making its determination on the facts and would give consideration to the weight it would attach to Mr Fitchett's evidence.

## **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 5 to 7

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

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

Section 4: Teaching Regulation Agency documents – pages 34 to 997

Section 5: Teacher documents – pages 998 to 1091

In addition, the panel received the outcome of a case management hearing held on 1 March 2024.

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

The panel also accepted a timeline prepared by the presenting officer, noting that it did not constitute evidence in the case but was intended to assist the panel to navigate the bundle. There was no objection to the admission of this document by Mr Fitchett's representative.

Since the hearing was part heard, the panel also received transcripts of Part 1 of the Hearing. In advance of Part 2 of the Hearing, the panel received an application to exclude the public and supporting documents on behalf of Mr Fitchett.

## **Witnesses**

The panel heard oral evidence from:

- Pupil A, former pupil; and
- Witness B – [REDACTED]

both called by the presenting officer.

Mr Fitchett confirmed on oath that the contents of his written statement were true to the best of his knowledge and belief, but became absent from the hearing shortly after his cross-examination commenced.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

Mr Fitchett was employed at the College from 1 September 2015, initially as a teacher of mathematics and latterly as the second in faculty of mathematics. On 27 May 2022, Mr Fitchett disclosed an incident involving Pupil A. On 10 June 2022, Mr Fitchett was suspended pending the outcome of the College's investigation of the incident. Mr Fitchett resigned from his role on 7 November 2022. On 8 November 2022, a disciplinary hearing



was held, and on 2 February 2023 a re-hearing took place following an appeal by Mr Fitchett. Mr Fitchett was referred to the TRA on 28 February 2023.

## **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:

### **Whilst working as a teacher at [REDACTED]:**

#### **1. On or around 26 May 2022, he:**

##### **a. kissed and/or attempted to kiss Pupil A;**

Mr Fitchett denied this allegation.

Pupil A gave evidence that in October 2021, Mr Fitchett became her [REDACTED] teacher for a mandatory part of the [REDACTED] requiring students to undertake any form of activity that fulfilled the criteria of [REDACTED]. Pupil A stated that she was allocated to [REDACTED] and that Mr Fitchett was her [REDACTED] for this activity.

Pupil A explained that a more personal relationship developed between herself and Mr Fitchett when she returned to College after the Christmas break in January 2022. Pupil A had [REDACTED] and she confided in Mr Fitchett about this who she found to be sympathetic. She referred in her witness statement to having not been aware of any designated [REDACTED] at the College and in oral evidence stated that she did not receive any formal support from the College. She stated that Mr Fitchett was known to be a “casual, non-chalant [sic] character” and she described him having an informal relationship with students. She stated that she found comments that he made, for example regarding her appearance, “a bit weird” but did not think “that he meant anything he said seriously”.

Pupil A stated in her witness statement that Mr Fitchett had made a comment in around April 2022 that made her feel uncomfortable in that he said that he knew that she had a “big crush on him” and that he had “a little crush on her”. She stated that she told him that “he cannot say things like that” and from that point she kept her distance although accepted his help with mathematics.

Pupil A stated that on 24 May 2022, the night of the College prom, Mr Fitchett asked her for details of her social media account and he explained that it was permitted by the College for teachers to keep in personal contact with students after they had left.

On 26 May 2022, Pupil A stated that Mr Fitchett messaged her on Instagram saying “P5 today” which she understood to be a request that she visit him to say goodbye. She stated that she met Mr Fitchett in the maths block at approximately 3:40pm and they

talked for around 30 minutes about various things, including her time at the College, her plans for University and for the Summer. She stated that he teased that he was going to visit her often in University and “wreak havoc”. Pupil A stated that she gave him a card to thank him for his support and he gave her a hug in the doorway. Pupil A stated that she had hugged other teachers and members of staff goodbye. She stated that his last words to her were asking her to keep in touch and that he may visit her.

Pupil A stated that as she started to leave, Mr Fitchett “grabbed me by my left arm, pushed me against the wall, looked around, and then leaned close to my face”. She stated that she suspected what he was about to do, and said “no, you can’t do this”. She stated that she was “cut short as he put his fingers against my cheeks and pushed my face towards his. He kissed me for a very short period of time and then I pulled away immediately.” She stated that she rushed down the stairs and Mr Fitchett asked her to text him.

Once outside the maths block, Pupil A stated that she immediately called a friend and explained what had happened.

Pupil A stated that she left the College to go to the [REDACTED] and whilst there, Mr Fitchett messaged her asking “We opening cards yet!”, and she replied asking why he had tried to kiss her. She stated that he sent a message asking her to call but that she refused to do so. She had [REDACTED], she noticed that several of her messages with Mr Fitchett, and notably the one when she had confronted him about kissing her, had been deleted. She stated that she messaged him to ask if he had deleted the messages so he could fabricate a fake story about what happened, and showed him that she had taken screenshots of the deleted messages. She stated that after [REDACTED] she noticed that Mr Fitchett had blocked her on Instagram.

Pupil A stated that she was concerned about Mr Fitchett retaliating and trying to hurt her [REDACTED]. She therefore messaged him on WhatsApp on 28 May 2022 to seek to resolve the position amicably. She saw that Mr Fitchett viewed the message but did not reply. She stated that she sent a further message in the hope of being assured he had no malicious intention. She stated that he responded saying that he had tried to “quit the College”. She stated that they spoke two or three times by telephone discussing what had happened, and they agreed to go their separate ways although she agreed to send a message to Mr Fitchett on his birthday to let him know how she was.

Pupil A stated that on 8 June 2022, she received a missed call from Mr Fitchett and called him back. She stated that he told her that the College knew about the incident and that she would probably be contacted about the matter. She stated that he said “I told them we kissed”, and that she was outraged that he had insinuated that it was a consensual act.

She stated that she attended a virtual meeting with the [REDACTED] of the College and provided screenshots of the Instagram and WhatsApp messages that she had exchanged with Mr Fitchett following the incident.

Mr Fitchett provided a witness statement for these proceedings. This stated that he had met with Pupil A in a shared office/learning space in the maths block and they had a friendly conversation about her time at the College, her exams and her plans. He stated that he recalled saying that he had to go, and started to pack up his belongings. He stated that they walked out of the office to the area at the top of the stairwell, at which point Pupil A hugged him, and he put one arm loosely around her shoulders, as he was carrying various items in his hands. He stated that Pupil A then leaned in and tried to kiss him. He stated that he pushed Pupil A and took a step back. Pupil A then left and he returned to his office to try to calm down.

Mr Fitchett then stated that he contacted Pupil A on Instagram. It is his position that Pupil A manipulated the exchanges of message to support her version of events and that the screenshots produced are neither dated nor timed.

Mr Fitchett stated that he knew he needed to talk with someone at the College, and told a colleague the next day and they went to see the [REDACTED] to report what happened.

There were no other witnesses to this event, and the panel therefore considered the credibility of Pupil A, and the extent to which her account was supported by contemporaneous documentation. The panel considered that Pupil A's account had remained largely consistent throughout the College's investigation, her written statement for these proceedings and throughout her oral evidence, including cross-examination. The panel exercised care, given that the burden was on the presenting officer to prove the TRA's case. The panel was satisfied that the presenting officer had established a prima facie case. The panel and presenting officer were unable to test Mr Fitchett's evidence, limiting the weight that could be placed upon it.

Criticism was made by Mr Fitchett's representative of the College's investigation in that no evidence had been sought of call logs to support whether Pupil A called her friend immediately after the incident. Whilst no call logs were obtained, an interview was held with the friend. That friend was not called to give oral evidence in these proceedings. However, the panel did not consider it was necessary to consider if the notes of this interview were admissible as evidence of what Pupil A told the friend, given the other documentary evidence available.

The panel noted that Pupil A did not report the incident to the College. She provided an explanation for this saying that, having spoken with her [REDACTED], she was concerned about the risk of retaliation from Mr Fitchett. [REDACTED]. The panel considered that there was some support for Pupil A having felt this way, since the panel saw a WhatsApp message on 28 May 2022 in which Pupil A wrote, that Mr Fitchett did "not need to worry about me telling anyone" and "Why you kissed me despite telling you

not to, I may never understand. But I'm writing to you on here (as I was blocked on Instagram) to let you know there's no reason to worry about getting in trouble or anything".

The panel had regard to the Instagram messages exchanged between Mr Fitchett and Pupil A immediately after she had left the College. Had it been the case that Pupil A had unexpectedly kissed Mr Fitchett, it is unlikely that he would have instigated a conversation given the clear boundary issues. Nevertheless, he opened the dialogue saying "We opening cards yet!". Pupil A sent a message stating "What on earth were you thinking when you kissed me?!". Rather than denying this, as would be expected if it was untrue, Mr Fitchett responded "I know I'm an idiot".

Mr Fitchett's representative cross-examined Pupil A at length as to whether she had manipulated the messages. The panel considered that Pupil A's explanations as to the differences between various screenshots stood up to scrutiny, and the panel had no reason to doubt the integrity of the messages, based on the evidence available.

Furthermore, the panel saw a six page letter that Mr Fitchett gave to Pupil A in a leaving card. This letter was an emotional outpouring of his feelings towards her. In the circumstances of having sent that letter, his response when Pupil A confronted him via Instagram, and this documentary evidence supporting Pupil A's account, the panel considered that it was more likely than not that Mr Fitchett had kissed Pupil A.

The panel found this allegation proven.

## **2. Between November 2021 and May 2022, he acted in an inappropriate manner towards Pupil A in that he:**

### **b. exchanged communication of a personal nature;**

In response to the notice of proceedings Mr Fitchett admitted that he exchanged communication of a personal nature with Pupil A. It was not apparent whether Mr Fitchett admitted that he had acted in an inappropriate manner in doing so.

The panel examined evidence of email exchanges between Mr Fitchett and Pupil A, messages that were exchanged on Instagram in the immediate aftermath of the kiss referred to in allegation 1. and WhatsApp messages exchanged in the following days, in addition to the letter Mr Fitchett gave to Pupil A inside a leaving card. The panel considered that each of these forms of communication had content that was of a personal nature.

The email exchanges included Mr Fitchett sending photographs of his dog and [REDACTED]. Mr Fitchett made a suggestion that a friend could give Pupil A a tour of [REDACTED]. Mr Fitchett shared with Pupil A in an email that his [REDACTED] the previous night. He also indicated that he was planning a cycling adventure to visit Pupil A

in [REDACTED]. In one email, Mr Fitchett stated “our family had a little chat after our convo [sic] on Sat and if you want a visit from [REDACTED] or [REDACTED], just let us know and we will all come in to see you and hopefully make your day better.”

In Mr Fitchett’s witness statement he stated that the emails were open and transparent and whilst some could be construed as being overly friendly, they were never intended to cross acceptable boundaries and were designed to be light-hearted and supportive. He stated that he now appreciated that the over friendliness of some of the emails was incorrect; he could see this was inappropriate and that he was “truly sorry” for not recognising this at the time.

The panel considered that the exchanges via Instagram and WhatsApp were entirely of a personal nature. They were after Pupil A had left the College and reflected upon what had gone on at the time of saying goodbye.

The letter that Mr Fitchett gave to Pupil A inside a leaving card was a six page emotional outpouring of his feelings towards her. Mr Fitchett has admitted in his witness statement that this was a personal letter that he regretted writing. He stated that he had wanted to express his best wishes to Pupil A for her life after the College.

The panel considered that Mr Fitchett had exchanged communications of a personal nature with Pupil A and that he acted in an inappropriate manner in doing so. The professional boundaries were blurred. [REDACTED]

The panel found this allegation proven.

### **3. His conduct at paragraph 1.a. and/or 2.a. and or 2.b. was sexually motivated.**

Mr Fitchett denied this allegation. His witness statement stated that he denied in the strongest possible terms that any alleged conduct, or conduct that he had admitted, was sexually motivated. He stated that at no time did he ever make any lewd or sexual comments or sexual advances towards Pupil A. The panel would have liked to have tested Mr Fitchett’s evidence in this regard. Nevertheless, the panel had firmly in mind that it was for the presenting officer to establish that it was more probable than not that Mr Fitchett’s conduct found proven in respect of allegations 1.a. and 2.b. was sexually motivated. The panel did not need to consider the conduct alleged in allegation 2.a. having found it not proven, as referred to further below.

The panel noted that sexual motivation could not be ascertained from direct observation but was something that could be inferred by inference or deduction from the surrounding evidence.

With regard to the kiss, Pupil A described the incident in the following terms: “As I started to leave, he grabbed me by my left arm, pushed me against the wall, looked around and then leaned close to my face... I suspected what he was about to do and I said ‘no, you can’t do this’ but I was cut short as he put his fingers against my cheeks and pushed my

face towards his. He kissed me for a very short period of time and then I pulled away immediately.” From this description, the panel was satisfied that the kiss was, because of its nature, sexual, rather than being a kiss on the cheek someone might give to say goodbye. A reasonable person would think, given the nature of the kiss, that it was more likely than not that Mr Fitchett’s purpose was a sexual one.

Further support for this being the case lies within the Instagram messages exchanged following the incident in which Mr Fitchett stated that he would explain on the phone when Pupil A was ready. The message went on to state “Reckless, definitely. Place it came from, will make more sense probably next week or week...” This combined with the description of the kiss indicated that it was more likely than not that Mr Fitchett engaged in the kiss either in pursuit of sexual gratification or in pursuit of a future sexual relationship.

Additional indications that Mr Fitchett envisaged a future relationship with Pupil A lie within the letter he enclosed with a card he gave her in anticipation of her leaving the College which also provided Mr Fitchett’s personal address and contact number.

This letter included the following comments:

“Here we are at the end of our first chapter... this is the beginning of something awesome.!”;

“We were meant to meet each other, so thank you for coming into my life”;

“You sorta [sic] wiggled your way into a space in my heart... I have so much love for you.”;

“I want nothing but to be in your life for I dunno [sic], let’s say forever!”

“I’m sure you’ve been checking in on me regularly anyway when you’ve been missing me. Probably part of your bedtime routine I haven’t... heard about. Trying to play it cool. I like it.”

Whilst the letter could be interpreted as Mr Fitchett envisaging a friendship continuing with Pupil A, given that he kissed her shortly afterwards, a reasonable person would reach the conclusion that it was more probable than not he was acting in pursuit of a future sexual relationship in giving her the letter.

[REDACTED]

Mr Fitchett’s personal communications with Pupil A, including his emails and the letter referred to above, all evidenced that he was establishing a relationship with her, culminating in him kissing her. Whilst the point at which Mr Fitchett’s personal communications became sexually motivated is unclear, the panel considered that it was more probable than not that they became so as the relationship developed.

The panel therefore found this allegation proven in respect of the conduct found proven in allegation 1.a and 2.b.

The panel found the following allegation against you not proven for the following reasons:

**2. Between November 2021 and May 2022, he acted in an inappropriate manner towards Pupil A in that he:**

**a. gave Pupil A gift(s);**

Pupil A's witness statement stated that on or around 21 May 2022, Mr Fitchett asked her to stop by his office as he had a surprise for her as he thought she was leaving the College that day. She stated that he gave her a present and a card, and that the present was a pack of 16 pairs of animated socks. She said that he explained the present was because [REDACTED]. She stated that she no longer had the socks, having disposed of them later as she did not want anything that reminded her of him. In oral evidence, Pupil A could not recall the exact number of socks, but stated that it had been more than ten pairs. The panel did not consider that the number of socks was a significant detail to have forgotten, particularly since she stated that she had not kept the socks.

In oral evidence, Pupil A also stated that she gave Mr Fitchett a gift at around the same time [REDACTED].

Pupil A also gave evidence that Mr Fitchett had, on two occasions, given her baked treats. Mr Fitchett stated that at the time, he had been a keen baker, and would often bake cakes for pupils' birthdays and other events. In oral evidence Pupil A stated that around Easter time, she had seen that Mr Fitchett had given treats from the same batch to other students. Mr Fitchett admitted baking cakes for pupils generally, but denied baking cakes specifically for Pupil A. The panel saw a written statement by another member of staff who referred to regularly baking cakes and biscuits for students, and that most teachers would bring in similar items for their classes as part of developing positive relationships with students.

Mr Fitchett admitted that he gave Pupil A a gift of two pairs of socks. There was some evidence that this exceeded one pair, as the letter included within the card that Mr Fitchett gave to Pupil A referred to "Just a few little somethings to remind you of me".

The panel did not consider that the giving of such gifts as described above was inherently inappropriate. There was no evidence that Pupil A had been singled out to receive the baked treats. With regard to the socks, the scale and nature of the gift may be pertinent to whether it was appropriate. However, based on the evidence available, the number of socks given was not certain, nor was the gift of a particularly personal item. The panel noted that the gift was given in circumstances where the mutual exchange of gifts was likely to be common, when a student is about to leave. Indeed, Pupil A had herself provided a gift to Mr Fitchett [REDACTED]. In those circumstances the panel did not

consider that it had been proven that it was more probable than not that the gifts signified that Mr Fitchett had acted in an inappropriate manner.

The panel found this allegation not proven.

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

Having found some of 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 Fitchett, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Fitchett 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.

Although Pupil A was 18 by the time she left the College, until that point there was still a teacher / pupil relationship with Mr Fitchett and, it being a boarding school, the College had a duty of care in loco parentis of which all staff ought to have been mindful.

The panel was satisfied that the conduct of Mr Fitchett in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”). The panel considered that Mr Fitchett was in breach of its fundamental requirements to safeguard and promote the welfare of children. Although children is defined in KCSIE as including everyone under the age of 18, the panel was of the view that Mr Fitchett had started to



breach professional boundaries in his communications with Pupil A before she reached the age of 18, and that he had begun to establish an emotional relationship with her.

The panel was satisfied that the conduct of Mr Fitchett fell significantly short of the standard of behaviour expected of a teacher.

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

The panel found that the offence of sexual activity was relevant.

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

The panel considered the circumstances in which Mr Fitchett found himself at the time. [REDACTED]. Despite this, Mr Fitchett blurred professional boundaries by using his relationship with Pupil A for his own emotional support, regardless of any detriment this might have caused to Pupil A.

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

The panel then considered whether Mr Fitchett was guilty of conduct that may bring the profession into disrepute.

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

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

As referred to above, the panel found that the offence of sexual activity was relevant.

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

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

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

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

## **Panel's recommendation to the Secretary of State**

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

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered on behalf of Mr Fitchett and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have 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; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of having breached the teacher professional boundaries over a period of time with Pupil A (a pupil that was vulnerable), and having gone on to kiss her against her wish.

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

The panel decided that there was also a strong public interest consideration in retaining Mr Fitchett in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching

profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

- 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 vulnerable 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;

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

Mr Fitchett's actions were deliberate. Whilst an informal, overly friendly relationship may have developed with Pupil A over a period of time, when he wrote a six page letter setting out his feelings towards her, and made the decision to give that letter to Pupil A he acted deliberately, as he did when he chose to kiss her in the manner Pupil A described.

There was no evidence to suggest that Mr Fitchett was acting under extreme duress, e.g. a physical threat or significant intimidation. However, the panel accepted that there had been issues in Mr Fitchett's personal and professional life between the end of 2020 and 2021 that had caused him to feel under significant pressure.

[REDACTED]

Mr Fitchett did have a previously good history. The panel was satisfied that he had contributed significantly to the teaching profession although there was insufficient evidence to conclude that he had demonstrated exceptionally high standards in both his personal and professional conduct. Mr Fitchett's representative explained that Mr Fitchett had advanced to second in maths, key stage 4 co-ordinator and acted as head of department during vacancies. Significant contributions to the department included mentoring and training less experienced staff; assisting new PGCE trainee teachers; organising and running various clubs, including running, gardening, recycling, football and athletics; leading the Maths Challenge and enrichment day cross-curricular activities; attending domestic and international trips and activities associated with the Duke of Edinburgh award; securing donations for the College; and running a summer school for pupil premium students to aid their transition to secondary school. The panel was told that he volunteers with various charities and has spent time in orphanages overseas caring for disabled and homeless children.

The panel was also told by Mr Fitchett's representative that Mr Fitchett was recognised consistently as an outstanding teacher through his observations and that he achieved exceptional examination results for his own classes and the department, improving year on year, albeit the panel did not see independent documentary evidence of this. The panel could not place much weight on this without documentary evidence in support.

The panel has seen a number of statements of colleagues who have worked with Mr Fitchett. One colleague who had worked with Mr Fitchett for approximately eight years stated that he had always been a popular member of staff which was down to the amount of time he gave to the College outside of the classroom, that Mr Fitchett had always gone above and beyond to help anyone; that he had been involved in multiple clubs, College trips and that he knew the students well and they were aware that they could come to him for help.

Another former member of staff and [REDACTED] at a former school referred to having turned to Mr Fitchett for help with her own children. She referred to how much he put into his subject teaching and how well the pupils responded. She went on to state "I am sure that if you asked students what they thought about Mr Fitchett they would tell you that he was always available, his door always open and that he genuinely cared about them all."

Another former colleague at the College stated "I heard first-hand how much the students valued his instruction in mathematics. Those who struggled with the [REDACTED] mathematics course, as well as those who excelled at maths, found his teaching to be excellent... He always put the needs of the students, collectively and individually, at the forefront of his teaching. He taught students first, not a subject." This colleague referred to Mr Fitchett's extra-curricular activities and concluded "In short, he led by example, giving of his talent and time to the school and surrounding community... The role of an educator goes beyond subject matter and in my experience, Mr Fitchett is one of those

teachers who matters to students, as they matter to him. His leaving the profession is a profound loss for all of us.”

Pupil B, a friend of Pupil A, provided a witness statement for the purpose of the College’s investigation and when commenting on the accuracy of her statement included a comment that “I would say he was one of the best teachers I had at [REDACTED].”

Mr Fitchett has demonstrated a level of insight that is beyond merely a willingness to offer an apology. He has demonstrated an understanding of what he did wrong, and the impact that it has had on Pupil A, the College and the teaching profession.

He made admissions regarding exchanging personal communication with Pupil A, and accepted that this was inappropriate. To his credit, he also admitted having given Pupil A gifts, albeit the panel has not found this to be inappropriate. The panel was concerned about the narrative that Mr Fitchett gave when he reported the kiss to the College and his explanation of the events in these proceedings which attributed its instigation to Pupil A.

Mr Fitchett has expressed his deep regret for having made grave errors in judgement. Most importantly, he has accepted that in the student/teacher interaction, he was the adult who held the position of trust and that his actions diminished that trust. He has, with hindsight, recognised how his actions have had a profound adverse impact on the wellbeing of Pupil A and that he should have been more astute to her potential vulnerability including that she was an [REDACTED]

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 Fitchett 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 Fitchett. It was important that in the interests upholding proper standards in the profession for it to be declared that engaging in a kiss with a vulnerable student against her wish was conduct that warranted a prohibition order, and that this outweighed the interests of Mr Fitchett. 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 two years.

The Advice indicates that there are cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. One of these cases include serious sexual misconduct. The panel did not however, consider that the sexual conduct in this case was at the most serious end of the possible spectrum. Another of these cases where it is likely that the public interest will weigh in favour of not offering a review period includes “any sexual misconduct involving a child”. Although Pupil A was a student of the College, being 18 years old she was not legally a child at the time of the kiss, as per the definition in KCSIE, albeit the overly-friendly conduct began whilst she was a child.

This was not a case where the Advice indicates that it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate.

The panel had regard to the contribution Mr Fitchett may be able to make to the teaching profession in the future, based upon the testimonial evidence received of his ability to educate. The level of insight demonstrated, [REDACTED] suggests that the risk of repetition is low.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provision for a review period after two years.

## **Decision and reasons on behalf of the Secretary of State**

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven, including 2 a, I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Mr Fitchett 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 Mr Fitchett, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

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

The findings of misconduct are serious as they include a finding of breach of professional boundaries with a vulnerable pupil, conduct found to be sexually motivated.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct or conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Fitchett 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, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings of having breached the teacher professional boundaries over a period of time with Pupil A (a pupil that was vulnerable), and having gone on to kiss her against her wish." 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, "Mr Fitchett has demonstrated a level of insight that is beyond merely a willingness to offer an apology. He has demonstrated an understanding of what he did wrong, and the impact that it has had on Pupil A, the College and the teaching profession." 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 Mr Fitchett were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of sexual misconduct in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Fitchett himself and the panel comment "The panel decided that there was also a strong public interest consideration in retaining Mr Fitchett in the profession, since no doubt had been cast upon his abilities as an educator and he is able to make a valuable contribution to the profession."

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

In this case, I have placed considerable weight on the panel's comments concerning the lack of insight or remorse. The panel has said, "Mr Fitchett has expressed his deep regret for having made grave errors in judgement. Most importantly, he has accepted that in the student/teacher interaction, he was the adult who held the position of trust and that his actions diminished that trust. He has, with hindsight, recognised how his actions have had a profound adverse impact on the wellbeing of Pupil A and that he should have been more astute to her potential vulnerability."

I have also placed considerable weight on the finding of the panel that "Mr Fitchett's actions were deliberate. Whilst an informal, overly friendly relationship may have



developed with Pupil A over a period of time, when he wrote a six page letter setting out his feelings towards her, and made the decision to give that letter to Pupil A he acted deliberately, as he did when he chose to kiss her in the manner Pupil A described.”

“There was no evidence to suggest that Mr Fitchett was acting under extreme duress, e.g. a physical threat or significant intimidation. However, the panel accepted that there had been issues in Mr Fitchett’s personal and professional life between the end of 2020 and 2021 that had caused him to feel under significant pressure.”

I have given less weight in my consideration of sanction to the contribution that Mr Fitchett 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 a 2 year review period.

I have considered the panel’s comments “The panel had regard to the contribution Mr Fitchett may be able to make to the teaching profession in the future, based upon the testimonial evidence received of his ability to educate. The level of insight demonstrated, [REDACTED] suggests that the risk of repetition is low.” The panel also said “This was not a case where the Advice indicates that it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate.”

In reaching my decision on an appropriate review period, I have taken into account the mitigating circumstances, including the level of insight and remorse demonstrated, the contribution Mr Fitchett is able to make to the teaching profession, balanced with the seriousness of the findings and public confidence.

I have considered the Advice and whether a 2-year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, I do not agree with the panel. In my view the panel has not placed sufficient weight on nature and severity of the behaviour when considering a longer review period, including the finding that Mr Fitchett deliberately developed a close, inappropriate and sexually motivated relationship with a vulnerable pupil over a period of time and the impact those findings could have on the profession.

Although the pupil was over 18 at the time of the kiss, in my view their vulnerability and the circumstances of a teacher using their position of trust to develop a relationship with

them, were important factors in reaching my decision on an appropriate and longer review period.

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

**This means that Mr Lewis Fitchett is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England.** He may apply for the prohibition order to be set aside, but not until 17 July 2029, 5 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Fitchett remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'SABuxcey', with a stylized, cursive script.

**Decision maker: Sarah Buxcey**

**Date: 9 July 2024**

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