



Teaching
Regulation
Agency

Mr Shadie Kanj: Professional conduct panel outcome

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

September 2024

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

Teacher: Mr Shadie Kanj
Teacher ref number: 0744360
Teacher date of birth: 27 December 1982
TRA reference: 21063
Date of determination: 12 September 2024
Former employer: Featherstone High School, Southall

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 11 to 12 September 2024 by way of a virtual hearing, to consider the case of Mr Shadie Kanj.

The panel members were Mr Paul Millet (lay panellist – in the chair), Mr Paul Burton (lay panellist) and Mrs Nicola Anderson (teacher panellist).

The legal adviser to the panel was Mr Benjamin Lewins of Birketts LLP solicitors.

The presenting officer for the TRA was Miss Leah Redden of Browne Jacobson LLP solicitors.

Mr Kanj was not present and was not represented.

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

Allegations

The panel considered the allegations set out in the notice of proceedings dated 19 August 2024.

It was alleged that Mr Kanj was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher, including at Cranford Community College:

1. He exposed himself on one or more occasions;
2. His conduct as referred to at allegation 1 above;
 - a. Constituted a criminal offence, for which he accepted a caution on or around 30 September 2011;
 - b. Was of a sexual nature and/or was sexually motivated.
3. Upon applying to and/or in disclosing his caution to Featherstone High School, he did not provide a full and/or true account of the reasons for his caution;
4. In acting as he did at allegation 3 above, he sought to mislead prospective employers;
5. His conduct at allegations 3 and/or 4 above was dishonest and/or lacked integrity.

Mr Kanj admitted allegations 1, 2(a), 2(b), 3, 4 and 5, and further admitted that his conduct amounted to unacceptable professional conduct and conduct that may bring the profession into disrepute, as set out in the statement of agreed facts, signed by Mr Kanj on the 12 June 2024. The panel noted that the statement of agreed facts omitted the phrase “*including at Cranford Community College*”. The panel considered that this omission was not material as the allegations were fundamentally the same without this wording.

Preliminary applications

Application to proceed in the absence of the teacher

Mr Kanj was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr Kanj.

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

The panel concluded that the Notice of Proceedings had been sent to Mr Kanj in accordance with the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 (the '2020 Procedures'). Although the Notice of Proceedings had not been sent at least ten weeks prior to the date of this hearing, the panel was shown evidence that Mr Kanj had agreed to a shorter notice period to enable the hearing to proceed on these dates.

The panel concluded that Mr Kanj's absence was voluntary and that he was aware that the matter would proceed in his absence.

The panel noted that Mr Kanj had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. [REDACTED]. The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay.

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

Application to admit additional documents

The panel considered a preliminary application from the presenting officer for the admission of additional documents. The panel also considered whether to admit an additional document provided by Mr Kanj.

The presenting officer's documents were:

- A document titled 'late document – police disclosure', which contained a summary of police interviews conducted with Mr Kanj on 15 July 2011 and 30 September 2011 (paginated 45 to 46).
- A letter dated 29 January 2024 from the presenting officer to Mr Kanj confirming the allegations against him being investigated.
- A letter from Mr Kanj's former employer [REDACTED] to Mr Kanj dated 15 January 2013 relating to its knowledge of Mr Kanj's caution(s).

The teacher's document was an email dated 2 September 2024 from [REDACTED] and any inferences that may be drawn from Mr Kanj's absence.

The documents subject to the application had not been served in accordance with the requirements of paragraph 5.37 of the 2020 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 5.34 of the 2020 Procedures.

The panel heard representations from the presenting officer in respect of the application. The panel accepted the presenting officer's submissions that Mr Kanj had received these documents in advance of the hearing. The panel also accepted that the police disclosure was omitted from the evidence bundle in error and considered it relevant to whether the allegations were proven.

The letter dated 29 January 2024 referred to above was provided by the presenting officer at the request of the panel as it had been referred to elsewhere in the bundle by Mr Kanj. The presenting officer did not object to the admission of Mr Kanj's document and considered that it went to mitigation provided the panel reached a point where mitigation was necessary to consider. The panel also considered the letter from Bridge Academy relevant to the allegations.

The panel considered the additional documents were relevant and accordingly, the documents were added to the bundle.

Consideration of jurisdiction and applicability of the principle of Res Judicata

Allegations 1 and 2 related to matters alleged to have occurred in or around 2011. There was evidence within the bundle of documents that the Independent Safeguarding Authority intended to refer information it held regarding Mr Kanj to the General Teaching Council for England ('GTCE') in or around 2012. The bundle did not contain any evidence that such a referral occurred, or that the GTCE had considered and made any determination in relation to, or as a result of, any referral.

The panel accepted legal advice provided in relation to the doctrine of Res Judicata.

The panel invited the presenting officer to make submissions on the issue of whether any matter before the panel had been authoritatively dealt with previously by the GTCE such that the doctrine of Res Judicata would prohibit the panel from exercising jurisdiction over these matters.

The panel accepted the presenting officer's submissions that, having investigated this extensively prior to this hearing, the TRA had found no evidence that a referral to the GTCE had ever been made or received and/or that any investigation had taken place or determination been made by the GTCE relating to Mr Kanj. The presenting officer also confirmed that Mr Kanj had been invited to submit any evidence he held which was relevant to this issue. Mr Kanj had only provided a letter from the GTCE confirming his registration on 3 February 2012 which made no reference to any disciplinary action or investigation and which the presenting officer submitted was likely to be a generic letter and not indicative of any referral having been received and determined.

In the absence of any evidence being located as a result of the TRA's investigations, or any persuasive evidence provided by Mr Kanj, the panel was satisfied that it had

jurisdiction to proceed with the hearing in relation to all allegations and that it was in the interests of justice to do so.

Summary of evidence

Documents

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

- Section 1: Notice of proceedings – pages 5 to 8
- Section 2: Chronology – page 10
- Section 3: Statement of agreed facts – pages 12 to 17
- Section 4: TRA witness statements – pages 19 to 33
- Section 5: TRA Teacher documents – pages 35 to 95.
- Section 6: Teacher documents – pages 98 to 145.

In addition, the panel agreed to accept the following:

- A document titled 'late document – police disclosure', which contained a summary of police interviews conducted with Mr Kanj on 15 July 2011 and 30 September 2011 (paginated as page 45 to 46)
- A letter dated 29 January 2024 from the presenting officer to Mr Kanj confirming the allegations against him being investigated
- A letter from Mr Kanj's former employer ([REDACTED]) to Mr Kanj dated 15 January 2013 relating to its knowledge of Mr Kanj's caution(s)
- An email from Mr Kanj's [REDACTED]

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

Witnesses

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

- Witness A
- Witness B

Decision and reasons

The panel announced its decision and reasons as follows:

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

In 2011, Mr Kanj was employed as a teacher at Cranford Community College.

On or around 15 July 2011, Mr Kanj was arrested and interviewed in relation to an incident occurring on 5 July 2011 (First Incident) and an incident occurring on 12 July 2011 (Second Incident).

On 30 September 2011, Mr Kanj accepted a caution for the offence of exposure in relation to the First and Second Incident.

In or around 2022, Mr Kanj applied for a job at Featherstone High School ('the School') and allegedly did not provide a full and/or true account of the reasons for his caution.

On the 1 September 2022, Mr Kanj commenced employment as a teacher of science at the School.

In or around September 2022, the School requested a Disclosure and Barring Service ('the DBS') check in relation to Mr Kanj.

On 11 October 2022, the DBS sent Mr Kanj a letter confirming no action would be taken by it but confirming that it had informed the TRA of its decision.

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. You exposed yourself on one or more occasions;**
- 2. Your conduct as referred to at allegation 1 above;**
 - a. Constituted a criminal offence, for which you accepted a caution on or around 30 September 2011;**
 - b. Was of a sexual nature and/or was sexually motivated.**

The panel noted that Mr Kanj admitted allegation 1, 2(a) and 2(b) in the statement of agreed facts. Notwithstanding this, the panel made determinations based on the evidence available to it.

The panel noted a document in the bundle titled 'caution summary' prepared for the TRA by the metropolitan police service in relation to the First and Second Incident, respectively.

First Incident

The caution summary stated that on 5 July 2011, a complaint was made by an adult female that on the 5 July 2011 at around 19:10, she looked out of her home window and saw a male individual sat in his vehicle parked down a street who had his hand and penis out of his trousers. The individual was masturbating for around 2 to 3 minutes with his window down, before driving off. The complainant was concerned as lots of children were around at this time. The complainant provided a number plate matching that of Mr Kanj's at that time.

Second Incident

The caution summary stated that on 12 July 2011, a complaint was made by an adult female that a vehicle had driven past her and parked ahead of her. The complainant had walked past the car and in doing so had seen an individual sat in the vehicle, with his penis in his hand and masturbating. The complainant provided a number plate matching Mr Kanj's at that time.

The panel noted the document titled 'late document – police disclosure', which was admitted by the panel. This document contained a summary of interviews conducted by the police and Mr Kanj. The panel considered the summary of an interview dated 30 September 2011, which stated that the police had obtained new evidence and were able to confirm Mr Kanj's vehicle was at the scene of the First and Second Incident. The document confirmed that Mr Kanj admitted the offences and that he had masturbated on both occasions. It was also recorded that Mr Kanj was remorseful for his actions and regretted everything.

The panel considered the acceptance of caution document supplied within the bundle and noted that Mr Kanj had accepted a caution for the following offences:

1. *Exposure – SOA 2003*

On 05/07/2011 at [REDACTED], W3 intentionally exposed your genitals intending that someone would see them and be caused alarm or distress. Contrary to section 66 of the sexual offences act 2003.

2. *Exposure – SOA 2003*

On 12/07/2011 at [REDACTED], W3 intentionally exposed your genitals intending that someone would see them and be caused alarm or distress. Contrary to section 66 of the sexual offences act 2003.

The panel accepted the evidence provided by the police and as admitted by Mr Kanj in the police interview and the statement of agreed facts as an accurate description of the circumstances resulting in the offences.

Having found that Mr Kanj had been masturbating in the First Incident and Second Incident, the panel concluded that the act of masturbation is inherently sexual in nature. The panel considered that masturbating in the circumstances set out above was an activity of a sexual nature.

The panel's attention was drawn to section 78 *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 that in *Basson* it was stated that "A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship". The panel further considered that in *Haris*, the High Court indicated that the criteria in *Basson* sets the bar too high. Notwithstanding this, the panel was satisfied that Mr Kanj was masturbating in pursuit of sexual gratification as this is the primary purpose of the act of masturbation. There was evidence in the bundle of Mr Kanj having a rash in his groin which he had to scratch and which led to him becoming aroused. There are also references in the bundle to medication being connected to the rash. However, the panel concluded that given its findings concerning masturbation in a car on a public highway it found that by definition this was an act of sexual gratification.

The panel therefore found allegation 1, 2(a) and 2(b) proven.

3. Upon applying to and/or in disclosing your caution to Featherstone High School, you did not provide a full and/or true account of the reasons for your caution;

The panel noted that Mr Kanj admitted allegation 3 in the statement of agreed facts. Notwithstanding this, the panel made determinations based on the evidence available to it.

The panel considered page 12 of Mr Kanj's application form for the teacher of science position at the School, where he had set out the circumstances around his caution on the 30 September 2011.

The panel noted that Mr Kanj had stated on this page:

'Due to an allergic reaction near my upper thigh groin area from prescribed medicines from my GP, I stopped my car twice to try to relieve the pain. Police labelled this action as being "exposure".'

The panel also considered a letter provided by Mr Kanj to the HR department at the School providing an explanation of his criminal offence of exposure. In this letter, Mr Kanj stated:

'This truly regrettable incident of scratching to relieve an incredibly bad rash near my groin area in my car on two occasions, was labelled by the police as "exposure". This was 11 years ago and the rash was a direct result of an allergic reaction to several medicines prescribed at the time by my GP...what is written on the DBS will most likely adopt the tone that it was intentional, when that was obviously not the case at all. The character reference of the Head Teacher at the time is attached and the evidence of my professional record over the last 10 years goes to support this'.

The panel considered the oral and written evidence of Witness A, who stated that Mr Kanj's caution had been disclosed on the application form and Mr Kanj provided a criminal offence explanation letter and a version of events which related to the fact that he was out in his car, when a rash had become itchy and he stopped to scratch this and was observed.

Witness A stated that he spoke with the previous headteacher of Cranford community college, where Mr Kanj was employed at the time of the First and Second Incidents. Witness A's evidence was that the previous head teacher had confirmed that Mr Kanj had been a good teacher but had been dismissed due to a caution.

Witness A stated that following this conversation, he received an email from [REDACTED], Person A, who stated that Mr Kanj had been masturbating in his car.

As a result of this disclosure, Witness A explained that he arranged a meeting with Mr Kanj. During this meeting, Mr Kanj maintained that he had been itching a rash but stated that in doing so, he had become aroused and that he understood that it might have been perceived as masturbation. Witness A's evidence was that it was implicit in Mr Kanj's statements that he was not masturbating.

For the reasons set out above, the panel has determined that Mr Kanj was masturbating during the First Incident and the Second Incident, and it was these acts which led to him accepting a caution for exposure. The panel considered that a full account of the reasons for his caution therefore necessitated Mr Kanj disclosing this fundamental piece of information. In avoiding doing so, the panel concluded that Mr Kanj failed to provide a full account of the reasons for his caution.

The panel considered that, based on the documentary and oral evidence, Mr Kanj's disclosure was that he had received a caution for exposure because he had been scratching a rash, which was caused by an allergic reaction to several medications prescribed by his GP at that time.

The panel considered the police summary of an interview conducted with Mr Kanj on 15 July 2011. In this, Mr Kanj provided an explanation that he had shaved his pubic hair which had resulted in a rash that he had been scratching at the time of the incidents. The police asked Mr Kanj if he had sought medical attention for the rash and he stated he had not. The panel noted that this account was inconsistent with the disclosure made by Mr Kanj to Witness A in that it makes no reference to a rash being caused by medication.

The panel considered evidence provided by Mr Kanj in the bundle, which referred to the impact of prescribed medication at the time of the First and Second Incidents. The panel considered that Mr Kanj referred to these medications primarily to highlight the possible impact of such medication on his conduct, in particular the possible symptoms including unusual thoughts or behaviour and confusion.

On the balance of probabilities, the panel found it likely that Mr Kanj did receive medication at the time of the First and Second Incidents but were not satisfied that it was responsible for any rash. The panel therefore concluded that Mr Kanj's account of the circumstances of his caution to the School that he had been scratching a rash caused by an allergic reaction to prescribed medication to be untrue.

The panel therefore found allegation 3 proven.

4. In acting as you did at allegation 3 above, you sought to mislead prospective employers;

The panel considered the oral evidence of Witness A and Witness B. Both Witness A and Witness B gave evidence to the effect that had they been aware of the full circumstances around Mr Kanj's caution for exposure, namely that the primary cause had been his masturbation in a public place, it would have affected their recruitment actions and possibly their decisions.

Witness B's evidence was that, had he been provided with a full and accurate account he would have questioned Mr Kanj's judgement. Witness B stated that such information would cause him to proceed with great caution and undertake further investigations including requesting advice from the Local Authority Designated Officer.

Witness A's evidence was that had he been aware of the full circumstances around the caution at the relevant time it would have been highly unlikely that the School would have employed Mr Kanj.

The panel considered its own experience of the teaching profession and the likelihood that Mr Kanj would have had regular and comprehensive safeguarding training during his career. Mr Kanj was dismissed from Cranford Community College in or around September 2011 for potentially bringing into disrepute the school and the profession as a result of the caution. In an undated declaration statement prepared by Mr Kanj and provided in the bundle, he stated that he fully understood the reasoning and outcome

with regard to his dismissal from Cranford Community College in 2011. The panel concluded Mr Kanj was aware his actions were wrong and would have known that a prospective employer would also agree his actions were wrong and that this would likely have had a material negative impact on his ability to obtain a job.

The panel considered that Mr Kanj deliberately withheld information and provided incorrect and untruthful information to the School to conceal the truth and minimise his actions. The panel concluded that Mr Kanj did so for the purposes of gaining employment.

The panel found allegation 4 proven.

5. Your conduct at allegations 3 and/or 4 above was dishonest and/or lacked integrity.

The panel first considered whether Mr Kanj acted dishonestly. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*.

The panel first sought to ascertain the actual state of Mr Kanj's knowledge or belief as to the facts. For the reasons set out above, the panel considered Mr Kanj was fully aware of the circumstances around his caution and deliberately withheld a full and complete account of what took place from the School. The panel considered this conduct to be fundamentally dishonest based on Mr Kanj's knowledge of the circumstances. The panel also considered that his actions were dishonest according to the standards of ordinary decent people.

The panel then considered whether Mr Kanj had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*.

The panel considered that Mr Kanj had failed to act within the higher standards expected of a teacher by his conduct as found proven at allegations 3 and 4. The panel considered that the information relating to the circumstances surrounding his caution was relevant information which he should have disclosed fully and truthfully to the School.

Mr Kanj had provided false and/or misleading information relating to his caution and had failed to disclose relevant information on his application to the School. The information was relevant to the School for safeguarding purposes, and as a teacher, Mr Kanj should have appreciated the importance of providing the School with full and truthful information. The panel noted that the truthful information that Mr Kanj failed to provide would be relevant to any school during the recruitment process and this was supported by the witness evidence of Witness A and Witness B.

The panel was satisfied that Mr Kanj's conduct, as found proven, lacked integrity.

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

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

This was a case involving the following offences that the Advice states are likely to be considered a relevant offence:

The panel found that the offence of sexual activity was relevant as Mr Kanj accepted a caution for an offence involving sexual activity.

The Advice indicates that where behaviours associated with serious dishonesty exist, a panel is more likely to conclude that an individual’s conduct would amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Having concluded that actions at allegations 3 and 4 were deliberate and motivated by a desire to obtain employment, they amounted to serious dishonesty.

The panel noted that although allegations 1, 2(a) and 2(b) took place outside the education setting, they were relevant to Mr Kanj’s position as a teacher in that his actions may lead to pupils being exposed to or influenced by his behaviour in a harmful way. The panel considered that as a result of Mr Kanj’s conduct there was a risk that his own judgement may be impaired such that he would not deal with a disclosure from a pupil relating to behaviour of that type as effectively as he should. The panel also determined that by Mr Kanj’s behaviour there was an inherent risk that he could have been seen by a child at the time of the First and Second Incident, which may have led to pupils being exposed to his behaviour in a harmful way.

The panel was satisfied that the conduct of Mr Kanj in relation to the allegations, individually and cumulatively, 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 Kanj 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 drew on the evidence of Witness B who stated that the full detail surrounding Mr Kanj's actions called into question Mr Kanj's personal morality and his judgement.

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

Having found the facts of allegations 1, 2(a), 2(b), 3, 4 and 5 proved, the panel further found that Mr Kanj's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

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

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found 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 – assessed by reference to the standard of the ordinary intelligent and well-informed citizen who both

appreciates the seriousness of the proposed 'sanction' and recognises the high standards expected of all teachers, as well as other issues involved in the case.

- Declaring and upholding proper standards of conduct within the teaching profession.
- 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 Kanj, which involved exposing his genitals intending that someone would see them and be caused alarm or distress, accepting a caution, failing to provide a full and/or a true account of the reasons for his caution when applying for a teaching position at the School, misleading the School and acting dishonestly and with a lack of integrity, there was a strong public interest consideration in the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct.

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

The panel acknowledged that there was a strong public interest consideration in retaining the teacher 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.

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 Kanj. 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 Kanj. 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.
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of The Police Act 1997 and criminal record disclosures.

- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature.
- dishonesty or a lack of integrity, including the deliberate concealment of their actions, especially where these behaviours have been repeated or had serious consequences.
- collusion or concealment including:
 - lying to prevent the identification of wrongdoing.

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 Kanj's actions were not deliberate.

There was no evidence that Mr Kanj was acting under extreme duress.

There was no evidence that Mr Kanj demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.

The panel considered evidence from Mr Kanj's [REDACTED], in which he stated that Mr Kanj had been honest in their [REDACTED] and that Mr Kanj was "*filled with remorse and regret*". The panel also considered Mr Kanj's admissions in the statement of agreed facts and his [REDACTED] statement that Mr Kanj "*totally accepts the position of the TRA's safeguarding procedures and agrees fully with the importance of transparency always*". The panel accepted therefore that there was evidence of Mr Kanj having insight and remorse for his actions.

Mr Kanj submitted that following the cautions he sought help for his [REDACTED].

The panel considered the character references submitted on behalf of Mr Kanj. The panel noted the following comments in particular:

- "*Mr Kanj has become a highly valued teacher and has shown himself to be a thoroughly nice, honest, trustworthy, dedicated and honourable person.*"
- "*Mr Kanj has consistently given 'over and above' that which most teachers contribute*"
- "*we were of the firm view that there was nothing to suggest that he posed any risk to children and it was a real shame to lose him to be honest*"

[REDACTED]

- *“Based on his conduct at Bridge Academy I see no reason why he should not continue teaching in schools”*

[REDACTED]

- *“He was a good teacher who was hardworking and conscientious. He worked well with his colleagues in the science department.”*

[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 Kanj 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 Kanj. The panel considered that the seriousness of the allegations found proven, those being that Mr Kanj had committed an offence of a sexual nature and acted dishonestly and with a lack of integrity, was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. The panel found that Mr Kanj had received a caution for exposure, which was sexually motivated and amounted to behaviour of serious sexual misconduct which was a factor weighing in the favour of not offering a review period.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours includes fraud or serious dishonesty. The panel found that Mr Kanj was responsible for failing to provide a full and truthful account of the reasons for his caution for exposure and that he did so seeking to mislead a prospective employer. The panel determined that

this conduct amounted to serious dishonesty which would be a factor in favour of a longer review period.

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 provisions for a review period of 3 years.

In coming to this conclusion, the panel was mindful of the factors weighing in favour of not offering a review period and/or offering a longer review period. However, the panel placed significant weight on the documentary evidence from Mr Kanj's [REDACTED] and were encouraged by this evidence, which showed that Mr Kanj was taking steps to continue his personal development. In particular, the panel considered the statement within the email provided that *"Shadie intends to continue with [REDACTED], to assist his continued personal development. He has shown great self-awareness and I believe that Shadie can return to the incredible teacher he once was"* and that he believed that *"Shadie is, in no way, a danger to any individual in any environment, particularly a school"*.

In light of this evidence, the panel considered that a prohibition with no review period would be disproportionate and that, in all the circumstances, it would be proportionate to recommend a prohibition order with provisions for a review period of 3 years. The panel considers this sufficient to achieve the public aims and to enable Mr Kanj to continue his path of personal development and introspection whilst outside the teaching profession.

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/or conduct that may bring the profession into disrepute.

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

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

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include a teacher committing an offence relating to sexual activity (exposing himself in public) and behaving in a way which lacked integrity and/or was dishonest.

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

“The panel noted that although allegations 1, 2(a) and 2(b) took place outside the education setting, they were relevant to Mr Kanj’s position as a teacher in that his actions may lead to pupils being exposed to or influenced by his behaviour in a harmful way. The panel considered that as a result of Mr Kanj’s conduct there was a risk that his own judgement may be impaired such that he would not deal with a disclosure from a pupil relating to behaviour of that type as effectively as he should. The panel also determined that by Mr Kanj’s behaviour there was an inherent risk that he could have been seen by a child at the time of the First and Second Incident, which may have led to pupils being exposed to his behaviour in a harmful way.”

A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which it sets out as follows:

“The panel considered evidence from Mr Kanj’s [REDACTED], in which he stated that Mr Kanj had been honest in their [REDACTED] and that Mr Kanj was “*filled with remorse and regret*”. The panel also considered Mr Kanj’s admissions in the statement of agreed facts and his [REDACTED] statement that Mr Kanj “*totally accepts the position of the TRA’s safeguarding procedures and agrees fully with the importance of transparency always*”. The panel accepted therefore that there was evidence of Mr Kanj having insight and remorse for his actions.”

In my judgement, the evidence that Mr Kanj has demonstrated some insight into and remorse for his behaviour means that there is a limited risk of a repeat of the sexual offences for which he accepted Police Cautions. However, I note that the panel has found that he has more recently failed to act with full honesty and integrity when failing to disclose the full nature of those events to an employer which, in my judgment, means that Mr Kanj has yet to develop full insight into and remorse for his behaviour and the risks it poses.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe,

“The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual’s status as a teacher, potentially damaging the public perception. The panel drew on the evidence of Witness B who stated that the full detail surrounding Mr Kanj’s actions called into question Mr Kanj’s personal morality and his judgement.”

I am particularly mindful of the finding of a teacher accepting Police Cautions for exposing his genitals in public and the serious negative impact that such a finding may have 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 that may bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Kanj himself. The panel comments that: “There was no evidence that Mr Kanj demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector.” However, I also note that a number of statements were considered by the panel attesting to his good character and ability as a teacher which indicate that he could be an asset to the profession in the future.

A prohibition order would prevent Mr Kanj 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 serious nature of the misconduct found by the panel, including a teacher accepting Police Cautions for exposing his genitals in public and behaving in a way which lacked integrity and/or was dishonest.

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

I have considered the panel's comments:

"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 provisions for a review period of 3 years.

In coming to this conclusion, the panel was mindful of the factors weighing in favour of not offering a review period and/or offering a longer review period. However, the panel placed significant weight on the documentary evidence from Mr Kanj's [REDACTED] and were encouraged by this evidence, which showed that Mr Kanj was taking steps to continue his personal development. In particular, the panel considered the statement within the email provided that "*Shadie intends to continue with his [REDACTED], to assist his continued personal development. He has shown great self-awareness and I believe that Shadie can return to the incredible teacher he once was*" and that he believed that "*Shadie is, in no way, a danger to any individual in any environment, particularly a school*".

In light of this evidence, the panel considered that a prohibition with no review period would be disproportionate and that, in all the circumstances, it would be proportionate to recommend a prohibition order with provisions for a review period of 3 years. The panel considers this sufficient to achieve the public aims and to enable Mr Kanj to continue his path of personal development and introspection whilst outside the teaching profession."

I have considered whether a three-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, factors mean that I agree with the panel that a three-year review period is an appropriate and proportionate response to the misconduct found.

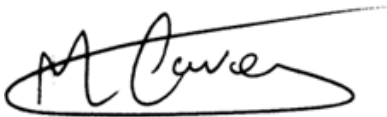
These elements are the serious nature of the sexual misconduct found and the possible negative impact of it on the public's perception of the profession, as well as the dishonesty demonstrated which, in my judgment, indicates that Mr Kanj has not yet attained full insight into and remorse for the behaviour that led to him receiving the Police Cautions for exposing himself in public.

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

This means that Mr Shadie Kanj 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 18 September 2027, three 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 Kanj remains prohibited from teaching indefinitely.

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

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

A handwritten signature in black ink, appearing to read 'M. Cavey', enclosed within a large, loopy oval stroke.

Decision maker: Marc Cavey

Date: 18 September 2024

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