



Teaching
Regulation
Agency

Mr Daniel Usher-Clark: Professional conduct panel outcome

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

October 2024

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

Teacher:	Mr Daniel Usher-Clark
Teacher ref number:	0149908
Teacher date of birth:	5 September 1977
TRA reference:	20045
Date of determination:	2 October 2024
Former employer:	Bishop Fox's School, Taunton

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 15 to 26 April 2024, 11 to 13 September 2024 (as private panel deliberation days) and 2 October 2024, by way of a virtual hearing, to consider the case of Mr Daniel Usher-Clark.

The panel members were Mr Diarmuid Bunting (lay panellist – in the chair), Mr Gamel Byles (teacher panellist) and Ms Sarah Daniel (lay panellist).

The legal adviser to the panel was Mr Ben Schofield of Blake Morgan LLP.

The presenting officer for the TRA was Ms Holly Quirk in April 2024, and Ms Leah Redden in October 2024, both of Browne Jacobson LLP.

Mr Usher-Clark was present and was represented by Mr Matondo Mukulu, instructed by NASUWT in April 2024, and Mr Matthew Ferris, NASUWT Regional Official, in October 2024.

The hearing took place in public and was recorded, save for elements of the evidence which were heard in private.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 28 November 2023 (and subsequently amended, as detailed in the preliminary applications section).

It was alleged that Mr Usher-Clark was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. Whilst employed as a Teacher in or around 2006, he:
 - a. Engaged in online chat with Pupil A;
 - b. Sought to engage in a video call with Pupil A;
 - c. Messaged Pupil A:
 - i. "still flirtin wiv teachers [?]"
 - ii. "u always seemed naughty! ... dirty / rude / sexy"
 - iii. "am not a teacher now... not yours! ... may be a good thing... we may have flirted 2 much!"
 - iv. "anyways, not your teacher no more!!! ... so, can b naughty! / theoretically / if we wanted too"
 - v. "single and horny now!!!"
 - vi. "hmmmmmmmm a shower!!! / there's a thought ... bet u look nice in the shower!!!"
2. Whilst employed as a Teacher at the Castle School, Taunton, between around 2006 - 2014, he engaged in inappropriate behaviour,
 - a. Towards Pupil B, including in that he:
 - i. Brushed his crotch against Pupil B's hip;
 - ii. Said to Pupil B that he would not report her behaviour to her mother if he could put his hand inside her knickers;
 - iii. Put his hand inside Pupil B's knickers and/or touched Pupil B's vagina;
 - iv. Threatened to Pupil B that he would report his conduct to her mother unless she touched his penis;
 - v. Forced Pupil B to masturbate his penis;

- vi. Forced Pupil B to perform oral sex;
- vii. Grabbed Pupil B by the throat;
- viii. Had sexual intercourse with Pupil B in circumstances where she did not consent.

b. Towards Pupil C, including in that he:

- i. Provided his personal email address to Pupil C;
- ii. Emailed Pupil C;
- iii. Asked Pupil C to send inappropriate photographs of herself;
- iv. Emailed Pupil C that she was "so beautiful can you show me more";
- v. Asked Pupil C to help him, alone, move office after school;
- vi. Kissed Pupil C in his office;
- vii. Visited Pupil C at her home;
- viii. Kissed Pupil C at her home;
- ix. Lay on top of Pupil C in her bedroom;
- x. Took off Pupil C's trousers and underwear;
- xi. Placed Pupil C's hand on his penis;
- xii. Touched Pupil C inside her vagina.

3. Whilst employed as a Teacher at the Castle School, Taunton, on or around 6 October 2013, he messaged in a Skype conversation:

a. [in response to `ever done anything naughty at school']: "yup / Wannked / Perved / Fuked another teacher / Wanked in my cupboard after class / Looked at girls tits"

b. [in response to `So what are you into then?'] "Role playing / Spanking / Uniforms / You'd Def need detention / But hopefully uniform would be right / Hold you down and make you suck sir / All in your school uniform"

4. Whilst employed as a Teacher at the Castle School, Taunton, on or around 12 October 2013, he messaged in a Skype conversation:

a. "Love younger / But legal only / Teacher role"

b. "Yours tits in uniform would be amazing"

5. Whilst employed as a Teacher at the Castle School, Taunton, on or around 17 May 2014 he messaged in a Skype conversation:

a. "Love you in my class"

b. "sir is going to imagine you're in uniform in class as I'm perving at you"

6. Whilst employed as a Teacher at the Castle School, Taunton, on or around 17 May 2014, he engaged in a Skype conversation that included the messages:

a. "in my short skirt x / Tight blouse"

b. "are u single sir? ... even more of a tease if your not / Ha. Put it that way then and I'm not"

c. "Can sir see you? ... A pic? That's a naughty little face / Sir likes ... In the mean time sir is going to imagine you're in uniform in class as I'm perving at you ... Soft looking lips... Got a uniform? ... And lityle undies?"

7. Whilst employed as a Teacher at the Castle School, Taunton, on or around 27 May 2014, he engaged in a Skype conversation that included the messages:

a. "I need extra help with my homework... / You'll have to earn it ... Sent a pic for sir"

b. "Sir is just getting in the shower... thinkin of my naughty girl joining me..."

8. His conduct as may be found proven at Allegations 1 - 7 above, was conduct of a sexual nature and/or was sexually motivated.

9. Whilst employed as a Teacher at the Bishop's Fox School, Taunton, he was in possession of around 41 illegal and/or extreme images, including:

a. 2 accessible Category A images;

b. 1 inaccessible Category A image;

c. 20 accessible Category C images

d. 6 inaccessible Category C images;

e. 6 accessible Category C moving images;

f. 6 accessible extreme moving images;

10. Whilst employed as a Teacher at the Bishop's Fox School, Taunton, he was in possession of around 672 indicative images of females in school uniforms, including images in which;

a. They were showing off their underwear;

b. They were marked 'jailbait'.

Preliminary and other applications

The panel considered the following applications during the course of the hearing:

Application by the teacher for the whole hearing to be held in private

Mr Mukulu made an application for the entirety of the hearing to take place in private. The application was premised on concerns that Mr Usher-Clark had on the impact that an open hearing might have [REDACTED]. In support of this submission, Mr Mukulu highlighted that this concern was also shared with Mr Usher-Clark's [REDACTED], Person A, despite [REDACTED] providing evidence against Mr Usher-Clark to the TRA. Mr Mukulu further submitted that this was an objective and legitimate concern and that to hold the hearing in private was a proportionate measure to address the concerns.

Miss Quirk opposed the application. In submissions, she highlighted that the starting point in regulatory proceedings is that they are conducted in public. This was in order that the regulatory process was as transparent as possible, which was in the public interest. Miss Quirk submitted that the application appears to do little other than delay what will be a public pronouncement of the findings that will take place later in this hearing, regardless of outcome of this application. Furthermore, Miss Quirk highlighted that the current observers at the hearing [REDACTED].

In considering the application, the panel accepted the advice of the panel's independent legal adviser. Firstly, the panel considered that there was a legitimate and objective foundation for seeking privacy, in that it sought to protect third parties who were not part of these proceedings [REDACTED]. However, the panel took into account the guidance from the courts which urged caution from moving from the starting point of open proceedings in these circumstances and which should only be done so in exceptional circumstances. In considering the application, the panel was of the view that the application before it could be put no higher than a general concern for [REDACTED]. There was no specific evidence before the panel in regard to any material risk of harm that might occur unless the hearing took place in private. Accordingly, the panel considered that the application did not surpass the high threshold required and the application was refused.

Additional documents

At various points during the course of the proceedings, each party sought to adduce further documents before the panel. On each of these occasions, the responding party to the application did not oppose to the material being introduced and the panel was satisfied that it would be relevant and fair to admit them. These included:

- A screenshot of a WhatsApp message from Person A to him in relation to [REDACTED] (as part of Mr Usher-Clark's application for the hearing to be held in private);
- A combined architectural plan of the ground floor of The Castle School provided by the TRA based on separate plans already contained within the bundle;
- A statement of agreed facts as to the closure dates of the 'orange.net' and 'o2.co.uk' email servers.

Parts of the evidence heard in private

During the course of the proceedings, the panel of its own volition, used its powers under paragraph 5.85(iii) (of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2020) to hear parts of the evidence in private. On these occasions, there were no contrary submissions from the parties to the hearing moving into private session for these elements. Those parts of the evidence heard in private related to:

- Medical and family issues related to Pupil B;
- Various email addresses of Pupil C (which would have revealed her uncyphered name).

During the course of giving evidence during the fact-finding stage, Mr Usher-Clark himself, made an application for part of his evidence to be heard in private. In essence, Mr Usher-Clark was about to be asked some questions regarding his position that his [REDACTED] had had a material bearing on the allegations and he felt that he could not give full and frank evidence on the issue with [REDACTED] observing him when evidence relating to that topic was given.

The panel decided it would be in the interests of justice to ensure that a witness was able to give their best evidence without a concern of the impact that giving such evidence might have on public observers at the hearing (whether reasonably held or not). The panel also noted that although providing a witness statement in these proceedings to the TRA and being present on every day during this hearing, Person A had not been called to give evidence herself.

The panel considered this was a small and discrete topic if which held in private would not materially impact on the public's general understanding of the case. Accordingly, the

panel directed that certain questions and answers regarding this topic were to be heard in private.

At the sanction stage, Mr Ferris made an application for further evidence to be given by Mr Usher-Clark to be considered in private. This related to a prepared statement that Mr Usher-Clark intended to read out. Its contents included references to [REDACTED]. Mr Ferris also highlighted that attempting to jump between public and private sessions during the course of Mr Usher-Clark's evidence at this stage was likely to cause a practical difficulty in Mr Usher-Clark giving his evidence.

Ms Redden opposed the application in part. She stated that the TRA did not oppose the material relating to [REDACTED], but submitted there were no interest of justice factors present relating to the other aspects which necessitated them to be heard in private. Furthermore, Ms Redden submitted that a number of sections of Mr Usher-Clark's proposed statement were not relevant to the sanction stage and therefore should not be admitted.

The panel granted the application for privacy for materially the same reasons as to Mr Usher-Clark's previous application during the fact-finding stage. Furthermore, the panel shared Mr Ferris' concern that trying to navigate between potentially public and private elements of Mr Usher-Clark's proposed statement would be so unwieldy as to be counterproductive to the efficient progression of the evidence.

The panel took into account the wide test of relevance in the disciplinary procedures. Importantly, Ms Redden did not advance that the panel would be prejudiced by this material, just simply that it was irrelevant to the sanction stage. The panel took into account that no unfairness would arise by admitting such evidence and the importance of a teacher being able to advance the case that they wished. The panel considered it was better placed to assess this evidence in the round for the sanction stage in its final deliberations, rather than seeking to dissect its relevance in a procedural application. The panel therefore refused Ms Redden's application to exclude elements of Mr Usher-Clark's statement, which the panel would consider in full.

Amendment of the allegation

Following the close of the parties' cases and the panel going into its private deliberations, the panel noted a number of discrepancies between the formulation of Allegation 9 and the relevant evidence of the police forensic report which categorised a number of images at page 75 of the hearing bundle. It was apparent to the panel that the discrepancies were simply typographical errors. The following errors were noted in the allegation drafting:

- At Allegation 9(e), it mistakenly references 26 accessible moving images, when the evidence states it was 6.

- At Allegation 9(f), it mistakenly references 6 inaccessible Category C moving images, when the evidence states there were none.
- At Allegation 9(g), it mistakenly references 11 accessible extreme moving images, when the evidence stated there were 6.
- At Allegation 9(h), it mistakenly references 2 inaccessible extreme moving images when the evidence stated there was none.

The panel noted that although late in the proceedings, the Disciplinary Procedures at paragraph 5.83 allowed amendments of the allegation to take place prior to the decision on facts being made. However, the panel further noted paragraph 5.84 which required the panel to seek representations from the parties before making any amendments. Taking into account the nature of any proposed amendment would be limited to essentially correcting a typographical error, the panel was satisfied that such an amendment would make no change to the nature, scope or seriousness of the allegation. It was plainly in the interests of justice for the allegations to be accurately drafted. The panel was not able to identify how such an amendment would have impacted on how the parties would wish to advance their respective cases. On that basis, the panel could not identify any material unfairness to the parties if the amendment was made without their further representations. As the panel did not think it a good use of deliberation time to pause and recall the parties for such an anodyne correction, the panel used its discretionary power under paragraph 1.5 of the Disciplinary Procedures to disapply the requirement to seek representations from the parties and amended the allegations to the effect that:

- it substituted the correct numbering in sub-allegations (e) and (g);
- deleted sub-allegations(f) and (h) and applied the relevant resequencing of the following sub-allegations.
- updated the total number in the stem of the allegation.

Whilst the panel queried why the TRA had not drafted particulars in relation to the non-moving extreme images, and questioned if it was simply related to the original drafting error, it did not consider it fair to further amend the allegation to include additional particulars without further representations.

Summary of evidence

Documents

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

Section 1: Index, chronology and anonymised pupil list – pages 1 to 9

Section 2: Notice of proceedings – pages 10 to 15

Section 3: Teaching Regulation Agency witness statements – pages 17 to 91

Section 4: Teaching Regulation Agency documents – pages 92 to 283

Section 5: Teacher documents – pages 284 to 442

In addition, the panel agreed to accept the documents set out above in the applications section.

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.

In the consideration of this case, the panel had regard to the document “Teacher Misconduct: Disciplinary Procedures for the Teaching Profession” 2020.

Witnesses

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

- Pupil A (former pupil from ([REDACTED]));
- Witness A ([REDACTED]);
- Pupil G (former pupil from [REDACTED]);
- Pupil C (former pupil from [REDACTED]);
- Witness B ([REDACTED]).

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

- Mr Daniel Usher-Clark (the teacher).

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 Usher-Clark qualified as a teacher in 2002. In September of that year, he took up his first teaching post at The King Alfred School. In 2004, Mr Usher-Clark became assistant head of year. In 2006, Mr Usher-Clark took up a role at The Castle School Academy as a head of house and head of subject. In 2014, Mr Usher-Clark moved to South Korea and worked at the North London Collegiate School Jeju as an assistant head. In 2018, Mr

Usher-Clark returned to the UK and started working at the Bishop Fox School, initially as a supply teacher and then as a head of year.

Pupil B was a former pupil from [REDACTED]. In July 2019, Pupil B stated to a healthcare clinician that she had been sexually and physically abused by a teacher when she was a pupil and named Mr Usher-Clark as the perpetrator. The NHS Trust made a safeguarding referral to the Local Authority Designated Officer. As a result, a number of investigations were instigated, including the school Mr Usher-Clark then worked at and previously worked at. The police also commenced a criminal investigation but Pupil B later withdrew her co-operation in the investigation. These various processes resulted in wider allegations being considered against Mr Usher-Clark.

Following the investigation and disciplinary process by Bishop Fox's School (the school Mr Usher-Clark was working at the time the disclosure was made), they made a referral to the TRA, which following further investigations, has resulted in this hearing.

The panel considered all of the factual evidence placed before it, consisting of the oral testimony of the witnesses who appeared at the hearing and the documentary evidence in the hearing bundle. However, in its determination, the panel will not refer to every piece of evidence it has considered nor has it sought to resolve every evidential dispute between the parties. The panel has taken into account Mr Usher-Clark's positive good character evidence when assessing the evidence.

The panel will address each of the specific allegations in turn, but at this point, it is worth remarking that both parties, when advancing their case, suggested to the panel that there was a 'common theme' in the evidence. The TRA suggested the evidence showed a pattern of behaviour by Mr Usher-Clark indulging in sexualised behaviour relating to pupils, both directly in his actions with them and also evidenced by matters in his personal life, such as revealed by his Internet history. Mr Usher-Clark suggested there was an underlying thread to these allegations which he suggested involved his [REDACTED] as a possible motivating factor for them being falsely made against him.

Findings of fact

The findings of fact are as follows:

1. Whilst employed as a Teacher in or around 2006, you:

- a. Engaged in online chat with Pupil A;**
- b. Sought to engage in a video call with Pupil A;**
- c. Messaged Pupil A:**
 - i. "still flirtin wiv teachers [?]"**

ii. "u always seemed naughty! ... dirty / rude / sexy"

iii. "am not a teacher now... not yours! ... may be a good thing... we may have flirted 2 much!"

iv. "anyways, not your teacher no more!!! ... so, can b naughty! / theoretically / if we wanted too"

v. "single and horny now!!!"

vi. "hmmmmmmmm a shower!!! / there's a thought ... bet u look nice in the shower!!!"

Evidence of Pupil A

Pupil A gave evidence before the panel. She stated that she attended The King Alfred School [REDACTED]. Following a brief period at [REDACTED], she returned to King Alfred's to [REDACTED].

Pupil A explained that Mr Usher-Clark was known to her as a teacher at the school, although he did not ever directly teach any lessons or classes that Pupil A was in. Pupil A stated that she recalled that at the [REDACTED], Mr Usher-Clark gave his email address to a number of pupils in a group, which included Pupil A, in order that they could update him as to their [REDACTED], as he was moving on to a different school. She further stated that they had a conversation on MSN Messenger at some point after this, albeit she could not remember how and when they became contacts on the platform.

Pupil A was provided with an 8 page document by the TRA's investigators, which appeared to be a print out of a conversation between two people. Pupil A confirmed this was the document that she printed off and gave to Witness A ([REDACTED]) in 2006. Pupil A explained that she had copied the contents of the conversation from MSN Messenger and pasted it into another programme to save it at the time the conversation took place. Pupil A stated that she saved the document on her computer, but did not do anything with it at first. When asked why she decided to save a copy of the contents of the conversation, Pupil A stated she knew something wasn't OK with the conversation she was having.

The document set out the two users names as "Clarky" and "[shortened name for Pupil A] [song lyrics]" followed by "says: [message content]". Pupil A stated that "Clarky" was Mr Usher-Clark and the other username was herself.

The document did not record the date or time the individual messages were sent. Shortly after the opening salutations between the two users, the document records the following message being sent:

“Clarky is inviting you to start sending webcam. Do you want to Accept (Alt+C) or Decline (Alt+D) the invitation?”

During the course of the MSN conversation, Pupil A states that she had just got back from work and did not wish to put the camera on. The user “Clarky” presses Pupil A to turn her camera on and the conversation continues and becomes somewhat flirtatious and sexualised. Pupil A declined to put the webcam on. The written particulars of sub-allegation 1(c)(i)-(vi) are direct extracts from different parts of this conversation.

There is mention about ‘Clarky’ no longer being a teacher to Pupil A, to which Pupil A responds that “*u neva were my teacher neway*”. Pupil A also asks “*howz new skool*”. On a second occasion, ‘Clarky’ sends a further invitation to start Pupil A’s webcam.

In trying to attribute a timeframe for the conversation, Pupil A stated that it was likely to be around September to October 2006, as there was mention of ‘college’ in the conversation and that was the time when she was at [REDACTED], as opposed to King Alfred’s Sixth Form.

Pupil A also stated this was the only conversation she had with ‘Clarky’ on MSN Messenger and that there were parts of the conversation which she could remember taking place, which did not appear in the transcript, such as ‘Clarky’ remarking on the colour of Pupil A’s underwear from a particular day back in [REDACTED], which she recalled he had been correct. In the print out of the conversation, some of the entries from both users appeared empty, for example it was recorded as “*Clarky says: [blank]*”.

When asked how she had associated the user account ‘Clarky’ to belonging to Mr Usher-Clark, Pupil A stated that it was in part an assumption due to the similarity in name and possibly to do with the email address she had been given previously by Mr Usher-Clark. Pupil A confirmed that during the conversation she did not seek to clarify if it was Mr Usher-Clark, as at the time she thought that is who she was speaking with.

Pupil A stated that in [REDACTED] 2006, on her return to King Alfred’s Sixth Form, she was overheard by Person A ([REDACTED]) talking about the messages with her friends. Following a discussion about the appropriateness of the messages, Pupil A stated she printed off a copy of the messages she had saved and provided them to Person B, [REDACTED]. Pupil A could not recall if she also showed the messages to Witness A. When challenged in cross-examination that Witness A said that Pupil A had directly approached her about the messages, Pupil A conceded that might have been a possibility, but that her recollection was that Witness A had initially overheard her conversation.

When asked what impact this event had had on her at the time and its effect on her relationship with other male teachers, Pupil A stated that she did not recall any material

impact on her or on what she thought about other teachers or having any conversations with Witness A to that effect.

Evidence of Witness A

Witness A gave evidence before the panel. Witness A's evidence was that she was a longstanding member of teaching staff at The King Alfred School, [REDACTED]. [REDACTED]. Witness A first met Mr Usher-Clark when he started at the school [REDACTED]. Witness A explained that she had been involved in the recruitment process for Mr Usher-Clark and had not been particularly impressed with him as a candidate, albeit he was selected for an alternative position at the school.

Witness A stated that one day whilst teaching a sixth form class, Pupil A approached her asking if they could talk. Pupil A said to her that Mr Usher-Clark had sent her some inappropriate messages when she was in [REDACTED].

In her written statement for the TRA proceedings, Witness A said that she thought that Pupil A had showed her the messages and that she recalled one of the messages said words to the effect of '*I saw you in the exam today and you made me feel hot*' and another message about Mr Usher-Clark asking Pupil A about what pants she was wearing. She further remarked that Pupil A was very upset when she told her about the messages. Witness A described that it appeared to have a major impact on Pupil A including that she felt she was no longer able to trust men in positions of authority, such as other male members of staff at the school. Witness A went on to say that as a result of Pupil A struggling with this issue, additional support was brought in for her.

Witness A stated that following the disclosure by Pupil A, she sought advice from a senior colleague, who in turn reported the messages to [REDACTED] Person B. Witness A was not aware of any other actions that were taken.

Witness A further stated that she was worried to find that out that Mr Usher-Clark had taken a later position as the Head of House at the Castle School. She thought there may have been a cover up of the situation with the inappropriate messages. Witness A described the culture at the school during that time as being very 'macho' and of 'all the boys together', particularly in the senior leadership team.

In cross-examination and further questions presented by the panel, Witness A accepted that there were parts of her statement which she sought to no longer rely on, such as irrelevant rumours about Mr Usher-Clark's fidelity. She also accepted the make-up of the school senior leadership team included a number of women. After giving evidence in which she sought to distance herself from having any significant contact with Mr Usher-Clark's [REDACTED], Witness A explained to the panel her knowledge of the TRA's investigation came from Mr Usher-Clark's [REDACTED] (Person A) and that Person A's [REDACTED] had been in contact with her trying to gain information about Pupil A.

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied this allegation. His evidence was that he was not the author of any of these messages with Pupil A. He emphasised that he would not engage in written conversations that used casual 'text speak' or such a grammatically poor writing style.

He recalled using MSN Messenger on a school account for one pupil who had to travel overseas and it was used to assist with their remote learning. Other than that school account, he said he did not use MSN messenger nor had any personal accounts.

Mr Usher-Clark also explained that he would never refer to himself as Clarky. The only person who referred to him by that nickname was [REDACTED].

Other documentary evidence

Also before the panel was a copy of the print out of the MSN messages. These pages had been recovered from Mr Usher-Clark's personnel file at the Castle School. They were found in an envelope postmarked 13 March 2007 which was addressed to the Headteacher with instructions on the envelope for it only to be opened by the Headteacher. Inside, along with the messages, was a compliment slip from The King Alfred School.

Person B, [REDACTED] at The King Alfred was contacted by the TRA in 2022. He confirmed that this material had come to his attention, but he could now not recall how. As Mr Usher-Clark had then left his school for the Castle School, Person B sent on the copy of the MSN messages to them.

In a witness statement to the TRA, Person A stated that Mr Usher-Clark regularly 'dropped' the Usher element in his surname and was known as 'Clarky'.

Panel's finding and reasons

The panel took into account the contents of the messages were consistent with the timeline and interactions that Pupil A and Mr Usher-Clark had and which were not in dispute. For example, the fact that Mr Usher-Clarke did not directly teach Pupil A, and the timings that both Pupil A and Mr Usher-Clark had both moved to different educational establishments.

The panel further took into account that the username of 'Clarky' shared a direct connection to Mr Usher-Clark, but was mindful that a username could be edited to include any text by a user. Related to this, the panel considered that the addition of 'y' to a name was a common occurrence in our society when familiar acquaintances greeted each other by name and the panel was not persuaded that the use of Clarky would be limited to the extent that Mr Usher-Clark suggested. Furthermore, the panel noted that Person A suggestion regarding the non-use of 'Usher' element of his name was seen in

other evidence before the panel, such as in the Skype username (duclarky). Furthermore, the panel noted that Person A suggestion regarding the non-use of 'Usher' element of his name was seen in other evidence before the panel, such as in the Skype username (duclarky) and the email address in evidence provided by Mr Usher-Clark himself (duclark).

Importantly, whilst Pupil A could not be sure as to exactly how she came to the conclusion she was speaking to Mr Usher-Clark, it was evident that this was not Pupil A looking back, but that she contemporaneously came to that conclusion, as was evidenced in the corroborating evidence of Witness A and the actions of Person B sending on the messages.

The panel was satisfied that the evidential picture demonstrated a clear and internally logical link to Mr Usher-Clark. It was a username which was consistent with names he used, talking from the perspective of a teacher and talking about facts within a timeline that was not in dispute.

The panel noted some clear inconsistencies in the evidence such as the difference in accounts between Pupil A and Witness A regarding the effect the messages had on Pupil A and reference to the underwear discussions which did not feature in the messages exhibited. Furthermore, the panel had some concern regarding the actions of Person A and those around her and the impact it might have had on the evidential reliability of the material before this panel. However, the panel did not consider that these inconsistencies or concerns materially affected the cogency of the evidence in this allegation.

On that basis, the panel was satisfied that it was more likely than not that Mr Usher-Clark had engaged with Pupil A via MSN Messenger and sought to view her webcam and sent messages as set out in the allegation.

Accordingly, the panel found Allegation 1 proven.

2. Whilst employed as a Teacher at the Castle School, Taunton, between around 2006 - 2014, you engaged in inappropriate behaviour,

a. Towards Pupil B, including in that you:

- i. Brushed your crotch against Pupil B's hip;**
- ii. Said to Pupil B that you would not report her behaviour to her mother if you could put your hand inside her knickers;**
- iii. Put your hand inside Pupil B's knickers and/or touched Pupil B's vagina;**
- iv. Threatened to Pupil B that you would report her conduct to her mother unless she touched your penis;**

v. Forced Pupil B to masturbate your penis;

vi. Forced Pupil B to perform oral sex;

vii. Grabbed Pupil B by the throat;

viii. Had sexual intercourse with Pupil B in circumstances where she did not consent.

Evidence of Pupil B

Pupil B did not give live evidence before the panel. In a previous case management decision, the panel decided to admit evidence of her account as hearsay evidence.

Evidence of her account was before the panel in the form a witness statement prepared for these proceedings and in the summary of an interview she undertook with police.

Pupil B attended [REDACTED]. Mr Usher-Clark taught Pupil B [REDACTED]. Pupil B's account set out she was caught by Mr Usher-Clark truanting and, once, when being called into his office was told by him that if she let him put his hands down her pants he would not report her truanting to [REDACTED]. Pupil B's account further set out a number of interactions between Mr Usher-Clark and herself that were of a sexual nature. Her account stated that these again took place in Mr Usher-Clark's office, sometimes after being caught truanting and taking issues with her uniform. Her account included the violent and penetrative acts as set out in the numbered sub-allegations.

Pupil B further set out that in 2020 she believed that Mr Usher-Clark had sent her an implicit threat via Facebook and further sent her some flowers and chocolates which contained [REDACTED]. Pupil B stated Mr Usher-Clark knew she suffered from [REDACTED].

Evidence of Pupil G

Pupil G gave evidence before the panel. [REDACTED]. She was not a direct witness to any of the allegations. Her evidence was that she recalled that Mr Usher-Clark would pay particular attention to Pupil B and was often asking to speak with her and taking her away from the group that she was in, albeit she did not have any concerns about Mr Usher-Clark at the time.

Pupil G was not made aware of Pupil's B allegations at the time. It was not until the summer of 2019 that they discussed the full nature of the allegations for the first time. Pupil G explained that she had kept in touch with Pupil B over the years and she was aware that Pupil B was going to report her allegations to the police.

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied these allegations. In his evidence, he explained that Pupil B had a complex background and there was simply no substance to her allegations.

Panel finding and reasons

Panel took into account there was a degree of inconsistency with Pupil B's account. For example, her evidence relating to the layout and construction of Mr Usher-Clark's office which was at odds with other evidence before the panel. There was little corroborating evidence in relation to Pupil B's allegations. The panel also took into account the inherent improbability of a teacher conducting a violent sexual assault, on multiple occasions, in a school office during school times. Without the benefit of further being able to further explore Pupil B's evidence at this hearing, the panel considered it could not fairly attribute any significant weight to Pupil B's hearsay evidence.

On that basis, it could not be satisfied it was more likely than not that these sub-allegations took place and the panel therefore found these sub-allegations not proven.

b. Towards Pupil C, including in that you:

- i. Provided your personal email address to Pupil C;**
- ii. Emailed Pupil C;**
- iii. Asked Pupil C to send inappropriate photographs of herself;**
- iv. Emailed Pupil C that she was "so beautiful can you show me more";**
- v. Asked Pupil C to help you, alone, move office after school;**
- vi. Kissed Pupil C in your office;**
- vii. Visited Pupil C at her home;**
- viii. Kissed Pupil C at her home;**
- ix. Lay on top of Pupil C in her bedroom;**
- x. Took off Pupil C's trousers and underwear;**
- xi. Placed Pupil C's hand on your penis;**
- xii. Touched Pupil C inside her vagina.**

Evidence of Pupil C

Pupil C attended [REDACTED].

Pupil C explained that she had obtained Mr Usher-Clark's personal email address during this period as she was going to ask him for a reference in an employment application. Although she could not remember how a conversation was initiated between them via email, she recalled that she was in regular communication with Mr Usher-Clark. She described the discussions included elements of her personal life such as her interests outside of school and issues in her private and family life, such as difficulties in her parents' relationship.

Pupil C explained because of [REDACTED] and [REDACTED], she enjoyed, to some degree, gaining this attention from Mr Usher-Clark as it gave her an opportunity to open up to him about such issues. Pupil C described that as the email conversations went on, they became sexual in their nature. She described that he would discuss and compliment her appearance, positive elements of her character and say how intelligent she was. He made remarks about her being beautiful and wanting her to 'show him more'.

Pupil C stated that in the autumn of 2008, [REDACTED], on an occasion Mr Usher-Clark asked her to come and help him with an office move. Pupil C said that she attended his office after school to help. On arrival, she realised that she was the only other person. Mr Usher-Clark came towards her and 'kissed her using his tongue'. He told her not to tell anybody about it afterwards.

Pupil C went on to explain that in the email messaging, Mr Usher-Clark became insistent on her sending a photograph of herself. In the end, she did send him a topless photograph. Mr Usher-Clark continued to ask for further photographs, but Pupil C became concerned about sending further images as she was learning more about Internet safety.

In the [REDACTED] of 2009, [REDACTED], Pupil C said that she was on study leave for [REDACTED] and Mr Usher-Clark contacted her to say he was coming round to her home address to drop off some coursework. He attended and after coming into the property he started to kiss Pupil C. She said that at this point in time she did not mind the kissing happening. She described that things then moved into the bedroom where Mr Usher-Clark lay on top of her whilst kissing her and that he went on to pull down her trousers and underwear. She described that he tried to move her hand towards his crotch but that she moved her hand away at that point. She described that he then placed his hand inside her thigh and penetrated her vagina with his fingers. She described this was the first time she had an experience of this nature and she found it painful. At that point, she told Mr Usher-Clark that [REDACTED] was coming home soon and the sexual activity stopped. Mr Usher-Clark left shortly after. She described being really upset and crying about the situation, but did not tell anybody else about what had happened.

Pupil C explained that the next relevant part of the timeline was in January 2012 when Mr Usher-Clark contacted her over Facebook asking how she was. He messaged a couple of days later saying that she never did ask for a reference and asked if she got a job. Seeing these messages upset Pupil C which was noticed by [REDACTED], at which point she disclosed what had happened between Mr Usher-Clark and her to [REDACTED]. She did not reply to the messages. She said that in February 2020 she received a further message from Mr Usher-Clark on Facebook Marketplace responding to an advert for an item she had put up for sale asking her is this still available. Pupil C said she did not reply to this message.

Pupil C stated that she then decided to report the matter to the police in April 2020. Pupil C stated that she was not able to access the email accounts anymore.

In cross-examination, Mr Usher-Clark's counsel challenged Pupil C's evidence suggesting that the allegations did not occur as there was no evidence of the emails available. He further suggested that the kiss in the office could not have taken place as there would have been a number of other staff around at that time and it would have been inconceivable for a member of staff to kiss a pupil in their office or to visit a pupil at their home during the working day.

Evidence of Witness B

In his evidence before the panel, Witness B explained that he was tasked with investigating historic sexual offences relating to Pupil C after it was reported to the police.

As part of his inquiries he seized a number of electronic devices from Mr Usher-Clark's home address, such as computers, tablets and mobile phones. Witness B stated he was looking for the topless image of Pupil C on those devices. After a significant amount of time searching the various devices, no evidence of the photograph was found, although there was evidence of email communication between Pupil A and Mr Usher-Clark in late 2009 and early 2010, albeit the contents of the messages could not be forensically retrieved.

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied these allegations, save he accepted that email addresses were given to pupils around that time, for things such as job references. This included Pupil C and he provided a screen shot of an email from Pupil C asking for a reference for [REDACTED] in the [REDACTED] of 2009. Mr Usher-Clark stated that the Castle School was slow to uptake technology and he did not have a professional email address there until late 2000's or early 2010's. Mr Usher-Clark highlighted that these emails post-dated the alleged misconduct and queried why she would have contacted him if the alleged misconduct had actually taken place.

Mr Usher-Clark's evidence was that he regularly moved offices around the school and would often ask pupils to assist him, although it would have been pupils from a different school house than Pupil C was in. Furthermore as it would often include heavy boxes, he would usually ask boys to help him. In essence, Mr Usher-Clark's position was that conducting such misconduct was inherently unlikely in a busy school environment.

Mr Usher-Clark also queried the timing of Pupil C raising these allegations with the police, which arose around the same time as Pupil B's.

Other evidence

It was an agreed fact between the parties that of the two service providers of Pupil C's relevant email accounts, one closed access in [REDACTED] 2017 and the other stopped sending and receiving emails in the [REDACTED] of 2016.

Panel finding and reasons

In relation to sub-allegation 2(b)(i), there was undisputed evidence from both parties that Mr Usher-Clark provided his personal email address to Pupil C. In relation to sub-allegation 2(b)(ii), the panel noted there was evidence in the police forensic report of email contact between Pupil C and Mr Usher-Clark on dates in late 2009 and early 2010, albeit these were recorded as all being emails from Pupil C to Mr Usher-Clark (whilst the sub-allegation is framed as relating to emails sent from Mr Usher-Clark). Furthermore Mr Usher-Clark produced in his evidence emails he had sent to Pupil C, in the [REDACTED] of 2009, responding to a request from her for a job reference.

Accordingly, the panel found the factual basis of these sub-allegations proved. The panel then further considered the stem of Allegation 2, and if this proven conduct was inappropriate. The panel was satisfied as a matter of common knowledge, professional email addresses were used pervasively in society well before the date of these allegations. It found Mr Usher-Clark's evidence in regards to the Castle School not implementing staff email addresses due to being a 'slow adopter' as lacking in credibility. On that basis, the panel did not accept that Mr Usher-Clark's providing Pupil C with his own personal email address was his only option at that time. The panel considered that by providing his personal email address to a pupil he had crossed the line in regards to professional boundaries with a pupil which would therefore be considered as inappropriate.

The panel therefore found Allegation 2b(i)-(ii) proven.

In regard to sub-allegation 2b(iii)-(iv), save for Pupil C's account of the content of those emails, there was no other corroborating evidence. For example, no emails between Mr Usher-Clark and Pupil C had been recovered from the material time in 2008, nor was any photograph of Pupil C found on Mr Usher-Clark's devices in the police search.

The panel took account of Mr Usher-Clark's proven similar actions with a former pupil in Allegation 1. Whilst this raised, at the very least, a suspicion with the panel that there might have been a similar reoccurrence, it did not consider such a suspicion as proving a sufficient evidential inference to support a finding for this allegation. Taking account of the panel assessment of Pupil C's evidence below, the panel considered that the TRA was not able to satisfy it that it was more likely than not, that Mr Usher-Clark had entered into inappropriate messaging with Pupil C and had asked for images from her.

Accordingly, the panel found sub-allegation 2(b)(iii)-(iv) not proven.

In regard to sub-allegation 2(b)(v)-(xii), the panel took into account the inherent improbability of a teacher engaging in sexual activity with a pupil in their office or by attending the pupil's home address. On that basis the panel was satisfied that it would need a high level of cogent evidence to satisfy itself such conduct occurred (although the panel recognised this did not increase the standard of proof for the TRA).

Whilst the panel did not consider Pupil C a dishonest witness, by any stretch, the panel noted some material inconsistencies in her account. Examples of those included her evidence regarding having no further email contact with Mr Usher-Clark after [REDACTED] in 2009 until the Facebook messages in 2012. This was demonstrably incorrect as there was police forensic evidence showing that Pupil C emailed Mr Usher-Clark on three occasions in late 2009 and early 2010, albeit the contents of those emails were unknown. When asked about what led her to report to the police (in April 2020), Pupil C referred to having received a message on Facebook regarding an item she had for sale, from Mr Usher-Clark. She explained that this had caused her to [REDACTED], she sat down and told him and decided, bearing in mind [REDACTED], that she should go to the police. However, in her witness statement and the record of the interview with the police, she referred to having first disclosed the alleged sexual activity in 2012 to [REDACTED].

The panel consider such inconsistencies could not simply be accounted for by the general level of inconsistency that is present in virtually all witness accounts or by the passage of time since these events occurred.

Furthermore, some of the evidence relating to these sub-allegations, even when taken at their highest of Pupil C's evidence alone, could not have been proved, such as the evidence relating to Mr Usher-Clark making Pupil C touch his penis at Allegation 2(b)(xi).

The panel was mindful of the legal guidance regarding an honest witness's recall and its fallible nature. In this case there was no other corroborating evidence regarding Pupil C attending Mr Usher-Clark's office or of Mr Usher-Clark attending Pupil C's home address. The evidence here essentially amounted to one word against another. The panel did take into account that there was no requirement for corroborating evidence to be present.

However, the panel was not satisfied it had sufficiently cogent evidence, in Pupil C's account alone, to be persuaded that such an improbable set of events had occurred.

Accordingly, the TRA was not able to satisfy its burden of proof in relation to sub-allegations 2(b)(v)-(xii).

3. Whilst employed as a Teacher at the Castle School, Taunton, on or around 6 October 2013, you messaged in a Skype conversation:

a. [in response to `ever done anything naughty at school']: "yup / Wannked / Perved / Fuked another teacher / Wanked in my cupboard after class / Looked at girls tits"

b. [in response to `So what are you into then?'] "Role playing / Spanking / Uniforms / You'd Def need detention / But hopefully uniform would be right / Hold you down and make you suck sir / All in your school uniform"

4. Whilst employed as a Teacher at the Castle School, Taunton, on or around 12 October 2013, you messaged in a Skype conversation:

a. "Love younger / But legal only / Teacher role"

b. "Yours tits in uniform would be amazing"

5. Whilst employed as a Teacher at the Castle School, Taunton, on or around 17 May 2014 you messaged in a Skype conversation:

a. "Love you in my class"

b. "sir is going to imagine you're in uniform in class as I'm perving at you"

6. Whilst employed as a Teacher at the Castle School, Taunton, on or around 17 May 2014, you engaged in a Skype conversation that included the messages:

a. "in my short skirt x / Tight blouse"

b. "are u single sir? ... even more of a tease if your not / Ha. Put it that way then and I'm not"

c. "Can sir see you? ... A pic? That's a naughty little face / Sir likes ... In the mean time sir is going to imagine you're in uniform in class as I'm perving at you ... Soft looking lips... Got a uniform? ... And lityle undies?"

7. Whilst employed as a Teacher at the Castle School, Taunton, on or around 27 May 2014, you engaged in a Skype conversation that included the messages:

a. "I need extra help with my homework... / You'll have to earn it ... Sent a pic for sir"

b. "Sir is just getting in the shower... thinkin of my naughty girl joining me..."

Evidence of Witness B

Whilst searching for evidence relating to Pupil C, the seized devices were searched and a number of Skype conversations attracted Witness B's attention. Extracts of these Skype conversations were in the evidence before the panel and their verbatim contents are set out in the allegation wording itself.

In the police computer forensic report, it sets out that on a PC recovered, a Skype account was found with a username of "duclarky (Dan Clark)". The messages also included this user describing themselves as living near Bristol and teaching PE and business. In one of the replies, the responding party makes reference to the user being [REDACTED].

The report set out that Skype accounts were also found on the Compact PC and the Samsung phones.

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied these allegations. His evidence was that he recalled having a joint Skype account with [REDACTED], which they used to keep in touch with others, whilst they were working away in South Korea, but did not recall having a personal account. He denied that he was the author of these messages, again highlighting that he would not use such a casual 'text speak' or grammatically poor writing style. He did not accept the account was his.

Under cross-examination, Miss Quirk challenged his non-acceptance of the account ownership. She took him to a remark in the Bishop Fox's School interview which read:

"[Interviewer]: This information shared by the police show a message sent in your username DUClarkey. Is that yours?"

"[Mr Usher-Clark]: Yes, I haven't used it in a while but that was my user name. I haven't used Skype for years, but can only assume it was, yes"

Mr Usher-Clark initially explained that he did not accept this as a true reflection of what was said in the meeting and that this element had been falsified by the school. Miss Quirk further explained that in his own evidence, Mr Usher-Clark stated he provided his own updated version of the meeting notes in which he made no correction to his answer as recorded to this question. Mr Usher-Clark responded that he simply must have missed this correction when he submitted his version.

Panel's finding and reasons

The panel was satisfied that the evidence showed a demonstrable link between the Skype account, the Skype messages and Mr Usher-Clark. It was an application that was used on multiple devices connected to him, the username was his name, the contents of the messages shared factually correct information which linked with his personal circumstances. The panel was unpersuaded by Mr Usher-Clark's attempts to distance himself from the remarks recorded in the school interview.

On that basis, the panel considered it was more likely than not that Mr Usher-Clark was responsible for the messages sent in this allegation and therefore found Allegations 3 - 7 proven.

8. Your conduct as may be found proven at Allegations 1 - 7 above, was conduct of a sexual nature and/or was sexually motivated.

The panel took into account the relevant legal guidance which stated that sexual motivation was conduct that was either undertaken in the pursuit of sexual gratification or in the pursuit of a future sexual relationship and the wider definition for conduct of sexual nature, by reference to the definition of 'sexual' found within the Sexual Offences Act 2003.

Allegation 1

Whilst only a small selection of the messages appear in the allegation wording, the panel had sight of the 8 page copy of the full conversation in which these selected messages could be read in their full context. This was a conversation led by Mr Usher-Clark in which he stated that he was 'horny', a term generally understood to be a reference to the degree of a person's sexual arousal. He further remarked that he would like to see Pupil A in the shower. Any reasonable person would interpret that a person showering would be in state of undress and that such reference would be based on enjoying seeing their naked body. The panel considered these references, supported by the other comments of discussing being flirty with teachers and repeated attempts to see Pupil A over a webcam, would be interpreted by a reasonable person as always considered to be sexual because of its very nature.

The panel then went on to consider Mr Usher-Clark's motivation behind this conversation. The panel were not able to identify any other reason why Mr Usher-Clark would enter into such a conversation of this nature apart from seeking sexual gratification. However, the panel could not identify any evidence which would suggest that there was any motivation by Mr Usher-Clark to pursue a future sexual relationship with Pupil A.

The panel therefore found Allegation 1 was of a sexual nature and sexually motivated (for the purposes of obtaining sexual gratification).

Allegation 2

In regard to the allegations proven regarding Pupil C, the panel considered that the provision of his personal email address and entering into email correspondence with Pupil C was not an inherently sexual activity. Based on panel's finding that it was not evidentially able to make any finding on the contents of the emails it had not seen, it could not further consider the circumstances or intentions behind them or assess Mr Usher-Clark's motivation. The emails the panel had seen (relating to the job reference) were not sexual in nature nor appeared sexually motivated.

Whilst considering the act of using his personal email was inappropriate, the panel could not be satisfied that it was more likely than not that the messaging was sexual in nature or sexually motivated.

Allegations 3 - 7

As with Allegation 1, whilst a number of specific messages were set out in the allegation, before the panel was the entire conversation which could therefore be fully considered in its context.

The conversations make reference to a number of sexual activities in colloquial terms, such as 'fucking', 'wanking' and 'sucking'. The panel considered such terms were inherently sexual in their nature. They also include references to areas of the body such as 'tits' and 'lips', which when considered in the circumstances in which those body parts are discussed, were also clearly of a sexual nature.

Some comments when viewed in isolation, such as the words in Allegation 5(a) of "love you in my class" might not immediately imply a sexual connotation. However, when seen in the full context of the messages, they are simply part of the ongoing teacher/pupil sexual roleplay. Therefore, they were still of a sexual nature.

The panel was further satisfied that the motivation for engaging a sexualised roleplay conversation would plainly be for the purposes of obtaining sexual gratification.

The panel therefore found Allegation 8 proved in relation to Allegations 1 and 3 - 7.

9. Whilst employed as a Teacher at the Bishop's Fox School, Taunton, you were in possession of around 41 illegal and/or extreme images, including:

- a. 2 accessible Category A images;**
- b. 1 inaccessible Category A image;**
- c. 20 accessible Category C images**
- d. 6 inaccessible Category C images;**

e. 6 accessible Category C moving images;

f. 6 accessible extreme moving images;

Evidence of Witness B

Whilst searching for the image of Pupil C, Mr Usher-Clark's devices were also subject to a wider search for other indecent images. Witness B explained that the police categorise indecent images into the following categories:

- Category A: Images which include penetrative sexual activity;
- Category B: Images which include non-penetrative sexual activity;
- Category C: Indecent images without any sexual activity taking place, such as a naked child posing in sexual manner.
- Extreme: Images not of children, but otherwise considered grossly offensive.

Images are further accounted for by their availability to be viewed by the device's user. Witness B explained these were either:

- Accessible: Which meant they could be easily retrieved by the device's user, such as being stored in a normal folder on the device's memory storage.
- Inaccessible: Where images cannot be accessed by the average user, such as when they have been 'deleted'. On some occasions, even though an image has been deleted by the user, it can still be recovered using computer forensic techniques, as deleted data can remain on a storage device until it is later overwritten.

Witness B explained that a specialist forensic officer took a copy of data stored on the devices and those copies were subject to manual searches by himself and using an automated search system known as 'CAID'.

Witness B stated that after two days of manual searches he was unable to locate any image of Pupil C. Using the CAID system, a small number of indecent and extreme images (including moving images), both accessible and inaccessible were found on some of the devices. Witness B described there being a significant amount of legal pornography on the devices and that in his view the ratio between the amount of legal to illegal pornography was so low, there was a possibility of the indecent/extreme images being obtained by accident, rather than purposefully obtaining this information. This was particularly so with pornography that was acquired by peer-to-peer 'torrent' downloads, as the downloading user will not be 100% sure of what they might be downloading.

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied this allegation. He confirmed that a number of electronic devices had been taken from his home by the police during their investigation, but highlighted that the images appeared to have been found on an old PC which was no longer actively used.

He stated that as a 'red-blooded male' he would access adult pornography, but he denied having any knowledge that there was indecent or extreme pornography on the computer. Mr Usher-Clark further explained that over the years many people would have had access to this PC as they took in lodgers and other longer term visitors. He stated the PC was placed in a communal area and was not password protected. Mr Usher-Clark offered this as a possible explanation as to why there might have been this material on his PC's, but accepted this was speculative.

Other documentary evidence

Mr Usher-Clark discussed using 'torrent' software to download various media files from the internet in his interviews with the police and Bishop Fox's School.

Panel's finding and reasons

There was no dispute between the parties regarding the images being found on one of the PC's from Mr Usher-Clark's home or their classification by the police. The real issue for the panel was to determine whether Mr Usher-Clark was in possession of the images or not.

Taking account of the legal guidance on the approach of establishing 'possession', the panel asked itself the following questions:

- Were the images within Mr Usher-Clark's custody or control, so that he was capable of accessing them?
- Did Mr Usher-Clark know that he possessed an image or group of images (regardless of their contents)?
- Was there any evidence that Mr Usher-Clark had not seen the images, and did not know, nor had any cause to suspect them to be indecent/extreme?
- Were the images sent to Mr Usher-Clark without any prior request and were they kept for an unreasonable length of time?

The panel noted that a number of sub-allegations related to 'inaccessible' images. The TRA's case did not include any evidence regarding if and when any of those images might have been 'accessible'. The panel also noted Witness B's evidence that the inaccessible images set out in the police evidence were not accessible to the normal user and there was no evidence that Mr Usher-Clark was equipped with the relevant skills or

equipment to retrieve these images. On that basis, the panel could not be satisfied that it was more likely than not that Mr Usher-Clark was in custody and control of the inaccessible images.

Accordingly, the panel found the sub-allegations relating to inaccessible images not proven.

As the same consideration was not present for the 'accessible' files, the panel went on to consider the further aspects of possession for those sub-allegations. The evidence before the panel showed that Mr Usher-Clark was aware of the computer devices and had himself used them including downloading material, including pornography, through torrent software. On that basis, the panel was satisfied that Mr Usher-Clark was aware that the relevant PC would have contained various images. The panel then went on to consider the evidence of Mr Usher-Clark's personal knowledge of the contents (or potential contents) of those images. As with the 'inaccessible' images, the TRA's case did not provide any evidence relating to if and when any of these images were accessed. Taking into account Witness B's evidence that the small ratio of indecent images could be explained by inadvertent downloading, the panel could not be satisfied that it was more likely than not that Mr Usher-Clark had any personal knowledge of the accessible images that formed the basis of Allegation 9.

Accordingly, the panel found the sub-allegations relating to accessible images not proven. Therefore, Allegation 9 was found not proven in its entirety.

10. Whilst employed as a Teacher at the Bishop's Fox School, Taunton, you were in possession of around 672 indicative images of females in school uniforms, including images in which;

a. They were showing off their underwear;

b. They were marked 'jailbait'.

Evidence of Witness B

As set out in Allegation 9, the evidence relating to this allegation originated from the police searches of devices seized from Mr Usher-Clark's home. Witness B explained in his evidence that 'indicative' was a category applied to an image where the age of person in the image was not distinguishable between that of an older child or a young adult. He further explained there were two definitions often applied to the phrase 'jailbait'. It was either to describe a young female under the age of 18, but who might look like an adult; or a lawful type of pornography in which an adult model is purposefully dressed to appear younger, for example, in a school uniform.

Witness B stated that that many of the images that were found on the PC were of females dressed in school uniforms and the images were often named, or included a logo

on the image that was marked 'jailbait'. They included images in which underwear was exposed. In total there was around 672 of these images.

In the forensic officer's report produced by Witness B, it set out that on the second PC, a separate hard drive and a Lenovo laptop (whose registered owner was recorded on device itself as "D"), there was evidence that:

"Indicative websites have been visited, including chat site `Chaturbate.com`; a legal chat site, however `schoolgirl` related cams have been searched for, and `www.jailbaitgallery.com`; a website with `teen` images (non-indecent)."

The report went on to record that:

"Yahoo usernames present on [the second PC] include `school_(redacted)`, `Schoolgirl(redacted)`, `kiddo(redacted)` and (redacted)TeenPussy'. Messages between these contacts have not been recovered.

A group chat with `Sexy_schoolgirl(redacted)` is on this device, where she states her age as 15."

In regards to messages found on two Samsung mobile phones (described in the report as Mr Usher-Clark's current and old personal mobile phone), the report stated that:

" Messages on these devices reference having `sex in classrooms` and `sir with his naughty student`..."

Skype messages with (redacted) refer to earlier messages 'back when she was Jailbait', although 'DC' (Usher-Clark) claims she was 19."

Evidence of Daniel Usher-Clark

Mr Usher-Clark denied this allegation on the same basis as set out in Allegation 9. When cross-examined by Ms Quirk about the references to jailbait also appearing on other devices personally connected to him, Mr Usher-Clark conceded there appeared to be a 'theme' in the evidence relating to this type of material, but stressed that it did not relate to his actions. When asked if he accepted the forensic report regarding his other messages, Mr Usher-Clark said he did not, albeit he did not advance any alternative explanation or evidence to rebut the report.

Panel's finding and reasons

Whilst Mr Usher-Clark stated that he did not accept the contents of the forensic report when pressed in cross-examination, any suggestion that its contents was materially disputed did not otherwise feature in his evidence or in submissions made on his behalf. Therefore, as with Allegation 9, the panel considered the real issue with this allegation

was the question of possession, which it again approached in the same fashion as before.

Whilst not explicitly set out in the evidence, the panel noted that these images were identified by Witness B in his manual search, rather than the automated CAID system. His evidence made reference to images in standard system folders, such as Dropbox. The forensic report also made reference to indicative images being located in a folder relating to school trips. The panel was therefore satisfied that it was more likely than not that a significant amount of these images would have been 'accessible' and therefore in the custody and control of Mr Usher-Clark. As with Allegation 9, the panel was satisfied that Mr Usher-Clark was aware that the relevant PC would have contained various images.

Again the panel went on to consider the evidence of Mr Usher-Clark's personal knowledge of the contents (or potential contents) of those images. Again there was no direct evidence as to when and if those indicative images had been accessed. However, in contrast with Allegation 9, there was evidence relating to interactions with those files, such as them being saved to Dropbox folders and being in school related folders. Furthermore, the panel considered the evidence of other searches and references to terms such as 'jailbait' that appeared multiple times over a number of years and on multiple devices, all of which were connected to Mr Usher-Clark (as often identified by the device or application's username). As a starting point, this suggested that Mr Usher-Clark would, at the very least, have understood or had a suspicion as to the likely content of these indicative images. That would be entirely consistent with the evidential picture of a person with sexualised thoughts about schoolgirls making active searches for this material.

As the panel found the TRA failed to satisfy its burden of proof in Allegation 9, the panel was not required to assess the account put forward by Mr Usher-Clark. However, such an assessment it now required in this allegation. The panel considered that Mr Usher-Clark's position amounted to little more than a bare denial and attempted speculation in the face of a compelling evidential picture that personally linked him to the actions of a person seeking sexual gratification, with schoolgirl fantasies. Mr Usher-Clark's evidence in this regard simply lacked credibility.

Accordingly the panel was therefore satisfied that it was more likely than not that Mr Usher-Clark was in possession of this indicative material and found this allegation proved.

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

Having found a number 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 Usher-Clark, in relation to the facts found proved in relation to his conduct towards Pupil A (in Allegations 1) involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Usher-Clark 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Usher-Clark amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession. Sexual misconduct is usually inherently serious. At the heart of Mr Usher-Clark’s actions in regard to this allegation was the prioritisation of his own sexual desires and gratification over his professional boundaries with a recent former pupil who was still a child and to protect her safety and wellbeing. It was a fundamental breach of his professional duties.

The panel took into account paragraph 18 of the Teachers’ Standards, which provide for the retrospective application of the standards. However, the panel was mindful that this was conduct that happened a number of years ago and included elements which took place before the implementation of those standards on 1 September 2012. In some circumstances, holding teacher’s historic behaviour to the standards that are in place today, could lead to a breach of nature justice. That is not the position in Mr Usher-Clark’s case. The panel considered engaging in the inappropriate sexualised

communication with children was still conduct falling significantly short of the expected standards of a teacher at that time from the early 2000's onwards. The Teacher's Standard's made no material change to that expectation, it merely codified it. Accordingly, the panel was satisfied no unfairness would arise to Mr Usher-Clark, in the application of paragraph 18 in these circumstances.

The panel also considered whether Mr Usher-Clark's conduct displayed behaviours associated with any of the offences listed on pages 12 onwards of the Advice. 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 found that the offence 'sexual communication with a child' was relevant to the assessment of unacceptable professional conduct.

The panel considered the conduct relating to Allegation 1 as having taken place outside the education setting. The panel was satisfied that sexual misconduct directed towards children would amount to exposing them to harm. Therefore the panel was satisfied that although occurring outside of the education setting, this could still potentially amount to unacceptable professional conduct.

Taking into account the above factors, the panel was satisfied that the conduct of Mr Usher-Clark in regard to Allegation 1 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 Usher-Clark was guilty of unacceptable professional conduct in relation to Allegation 1.

The panel further decided that similar considerations applied in consideration as to whether Allegation 1 would amount to conduct which might bring the profession into disrepute. The panel was satisfied that the public would be deeply alarmed in these circumstances. The public place a significant level of trust in the profession into protecting children. Such trust would simply evaporate if conduct of this nature was not considered serious and deplorable.

Accordingly, the panel was satisfied that the conduct of Mr Usher-Clark in regard to Allegation 1 also amounted to conduct that may bring the profession into disrepute.

In regard to the proven elements of Allegation 2, whilst the panel was satisfied that such conduct was inappropriate and would amount to misconduct of some degree, it did not consider that it crossed the high level of seriousness required or fall below the expected standards of teacher to such a level in which it could be categorised as unacceptable professional conduct. Likewise, the panel did not consider this misconduct was serious enough that it would affect the public's perception of the profession. Accordingly, the panel found that Allegation 2(b)(i)-(ii), as proven, did not amount to unacceptable professional conduct or conduct that may bring the profession into disrepute.

Allegations 3 - 7 and 10 relate to sexualised role play conversations and downloading pornographic imagery. The evidence relating to these elements show that they took place on Mr Usher-Clark's personal devices and outside of school hours. In short, this is conduct which took place in Mr Usher-Clark's private life. The panel was mindful of the boundaries of the incursion of professional regulation into the private life of its members, particularly in regards to consensual or other private sexual acts.

There was an obvious link to the profession, as the role play was based on the teacher/pupil dynamic and the pornography related to females in school uniforms. Furthermore, in the other allegations found proven, Mr Usher-Clark's actions had extended into real life misconduct with a recent former pupil.

However, the panel was required to assess these allegations individually. When Allegations 3 - 7 and 10 are viewed through this narrow prism and in isolation, the panel considered it was somewhat borderline as to whether such conduct on its own could be said to affect the way the person fulfils their teaching role or may lead to pupils being exposed to or influenced in a harmful way. Accordingly, the panel was not satisfied, albeit by only a small margin, that these private acts amounted to unacceptable professional conduct.

In relation to whether Mr Usher-Clark's actions in Allegations 3 - 7 and 10 amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others. It 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 panel was satisfied that the public would have a real concern about a person who demonstrated a desire to engage in sexual roleplay about being a teacher engaging in sexual acts with pupils and consuming a significant amount of pornography relating to 'school girls' being placed in a position of trust over children. The concern would be that the teacher may act upon such sexual desires with those children. Allowing such a concern to continue would strain the public trust to an intolerable degree.

Accordingly, the panel was satisfied that although Mr Usher-Clark's conduct at Allegations 3 - 7 and 10 did not amount to unacceptable professional conduct, they did amount to 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 for Allegation 1, and conduct that may bring the profession into disrepute in regard to Allegation 1, 3 – 7 and 10, 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. 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;
- the maintenance of public confidence in the profession;
- declaring and upholding proper standards of conduct.

In the light of the panel's findings against Mr Usher-Clark, which demonstrated a sexual interest in respect of the teacher/pupil dynamic which had also extended into his conduct towards a recent former pupil who was still a child, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils. Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Usher-Clark 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 Usher-Clark was outside that which could reasonably be tolerated.

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mr Usher-Clark in the profession. The panel decided that there was a 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 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 Usher-Clark.

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 Usher-Clark. 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;
- abuse of position or trust (particularly involving pupils);

- sexual misconduct, e.g. 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;

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. Taking account of the factors set out at page 18 of the Advice, the panel considered that Mr Usher-Clark's proven actions were deliberate and that he was not acting under duress.

Mr Usher-Clark did not call any character witnesses on his behalf, although he did provide five written references. One was from his [REDACTED] and the other four were from previous teaching colleagues.

None of the references were directly addressed to the TRA and one was expressly marked [REDACTED]. Whilst these points were factors which might suggest limited weight might be attributed to them, the panel noted that all the references at least made reference to 'allegations'. Much of the contents of those references focused on safeguarding aspects of Mr Usher-Clark's practice. Aside from asserting that Mr Usher-Clark was a professional and respected colleague, the references from teaching colleagues provided little in the way of concrete examples of Mr Usher-Clark's positive impact in the classroom or wider school community. Whilst that is perhaps not surprising as it appeared they were written for the purposes of the [REDACTED], it meant the references did little to assist the panel in assessing the positive public interest in retaining good teachers in the profession. However the panel was satisfied there was sufficient evidence to engage this public interest factor as a consideration in its recommendation, albeit there was no evidence that Mr Usher-Clark's contribution could be considered as being at a higher or exceptional level.

The panel also took into account that Mr Usher-Clark had fully engaged in the regulatory process and had no previous findings against him.

The panel considered the evidence of Mr Usher-Clark's insight into the proven allegations. It was careful not to automatically consider this as lacking due to his denials of the proven conduct. As the case advanced by Mr Usher-Clark had heavily focused on his denials of the factual allegations, there was limited evidence available for the panel to fully assess his insight.

However, there was at least some evidence which supported a degree of insight. This included a recognition in his evidence that these were serious allegations that he was facing. It also included evidence about his current approach to safeguarding in the online tutoring he was currently undertaking.

Accordingly, whilst not currently able to make a detailed assessment on Mr Usher-Clark's insight in the issues raised with these findings, the panel was satisfied that a developed insight would not be beyond his comprehension in the future.

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. 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 Usher-Clark.

In coming to this conclusion, the panel took into account the inherent seriousness and how the Advice guides panels to approach sexual misconduct involving children and conduct that may bring the profession into disrepute involving matters of sexual nature. The panel saw no reason to depart from this guidance. The panel considered that the wider public interest factors, such as maintaining confidence in the profession and upholding and declaring the proper standards of conduct would not be adequately protected if restrictive regulatory action was not taken. This was a case in which the conduct was too serious for the public interest factor of retaining Mr Usher-Clark in the profession to outweigh the other competing factors.

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 certain types of cases where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period. These include:

- serious sexual misconduct e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons;
- any sexual misconduct involving a child;

In assessing these factors, the panel took into account the proven allegations are of some age. In particular, the allegation regarding Pupil A related to conduct nearly twenty years ago, when Mr Usher-Clark was a young teacher himself. It was sexual conduct which could properly be considered as not being at the highest end of the possible sexual misconduct that is often brought before these panels (and indeed was before this panel, but was found not proved). It was contact limited to a short period of time and did not involve any physical interaction with the recent former pupil. Pupil A was clear in her evidence that Mr Usher-Clark's actions had not materially impacted her. Furthermore, the panel considered that by the passage of time since the misconduct without further proven instances of sexual communications with children, it was less likely that such conduct would be repeated in the future (particularly if supported with evidence of fully developed insight).

Accordingly, the panel considered it would not be proportionate in these circumstances if no review period was offered. The panel was satisfied the achievement of the other competing public interest factors (namely maintaining confidence in the profession and upholding and declaring the proper standards of the profession) would be met by a review period of five 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/or conduct that may bring the profession into disrepute.

In this case, the panel has also found some of the allegations not proven and/or found that some allegations do not amount to unacceptable professional conduct and/or conduct likely to bring the profession into disrepute. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Daniel Usher-Clark should be the subject of a prohibition order, with a review period of five years.

In particular, the panel has found that Mr Usher-Clark 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
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

Given that some elements of Mr Usher-Clark's misconduct pre-date the introduction of the Teacher Standards, the panel also records that:

"The panel took into account paragraph 18 of the Teachers' Standards, which provide for the retrospective application of the standards. However, the panel was mindful that this was conduct that happened a number of years ago and included elements which took place before the implementation of those standards on 1 September 2012. In some circumstances, holding teacher's historic behaviour to the standards that are in place today, could lead to a breach of nature justice. That is not the position in Mr Usher-Clark's case. The panel considered engaging in the inappropriate sexualised communication with children was still conduct falling significantly short of the expected standards of a teacher at that time from the early 2000's onwards. The Teacher's Standard's made no material change to that expectation, it merely codified it. Accordingly, the panel was satisfied no unfairness would arise to Mr Usher-Clark, in the application of paragraph 18 in these circumstances."

The panel finds that the conduct of Mr Usher-Clark fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a teacher engaging in sexually motivated communications with a recent former pupil who was still a child. They also include a teacher engaging in sexualised role play conversations and downloading pornographic images indicative of an interest in sexual fantasies based on the teacher-pupil dynamic.

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 Usher-Clark, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed that:

“Sexual misconduct is usually inherently serious. At the heart of Mr Usher-Clark’s actions in regard to this allegation was the prioritisation of his own sexual desires and gratification over his professional boundaries with a recent former pupil who was still a child and to protect her safety and wellbeing. It was a fundamental breach of his professional duties.”

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 the evidence of Mr Usher-Clark’s insight into the proven allegations. It was careful not to automatically consider this as lacking due to his denials of the proven conduct. As the case advanced by Mr Usher-Clark had heavily focused on his denials of the factual allegations, there was limited evidence available for the panel to fully assess his insight.

However, there was at least some evidence which supported a degree of insight. This included a recognition in his evidence that these were serious allegations that he was facing. It also included evidence about his current approach to safeguarding in the online tutoring he was currently undertaking.

Accordingly, whilst not currently able to make a detailed assessment on Mr Usher-Clark’s insight in the issues raised with these findings, the panel was satisfied that a developed insight would not be beyond his comprehension in the future.”

The panel does not record having considered any evidence as to whether Mr Usher-Clark’s has shown any remorse for his behaviour.

In my judgement, the lack of evidence of full insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel records that it: “...considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Usher-Clark were not treated with the utmost seriousness when regulating the

conduct of the profession.” I am particularly mindful of the finding of sexually motivated communications with a recent former pupil in this case and the negative impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Usher-Clark. With regard to his contribution as an educator the panel records that:

“The panel decided that there was a 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 contribution to the profession.”

The panel also references the fact that it had had the benefit of seeing a number of references regarding Mr Usher-Clark’s character and work as a teacher and states the following:

“None of the references were directly addressed to the TRA and one was expressly marked [REDACTED]. Whilst these points were factors which might suggest limited weight might be attributed to them, the panel noted that all the references at least made reference to ‘allegations’. Much of the contents of those references focused on safeguarding aspects of Mr Usher-Clark’s practice. Aside from asserting that Mr Usher-Clark was a professional and respected colleague, the references from teaching colleagues provided little in the way of concrete examples of Mr Usher-Clark’s positive impact in the classroom or wider school community. Whilst that is perhaps not surprising as it appeared they were written for the purposes of the [REDACTED], it meant the references did little to assist the panel in assessing the positive public interest in retaining good teachers in the profession. However the panel was satisfied there was sufficient evidence to engage this public interest factor as a consideration in its recommendation, albeit there was no evidence that Mr Usher-Clark’s contribution could be considered as being at a higher or exceptional level.”

A prohibition order would prevent Mr Usher-Clark 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 very serious nature of the misconduct found against Mr Usher-Clark, which included sexually motivated communications with a recent former pupil, and the panel's comments concerning the lack of evidence that he has demonstrated full insight or remorse.

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

I have considered the panel's concluding comments:

“In assessing these factors, the panel took into account the proven allegations are of some age. In particular, the allegation regarding Pupil A related to conduct nearly twenty years ago, when Mr Usher-Clark was a young teacher himself. It was sexual conduct which could properly be considered as not being at the highest end of the possible sexual misconduct that is often brought before these panels (and indeed was before this panel, but was found not proved). It was contact limited to a short period of time and did not involve any physical interaction with the recent former pupil. Pupil A was clear in her evidence that Mr Usher-Clark's actions had not materially impacted her. Furthermore, the panel considered that by the passage of time since the misconduct without further proven instances of sexual communications with children, it was less likely that such conduct would be repeated in the future (particularly if supported with evidence of fully developed insight).

Accordingly, the panel considered it would not be proportionate in these circumstances if no review period was offered. The panel was satisfied the achievement of the other competing public interest factors (namely maintaining confidence in the profession and upholding and declaring the proper standards of the profession) would be met by a review period of five years.”

I have considered whether a five-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, in my judgment, a five-year review period is a proportionate response to the serious misconduct found and to enable the

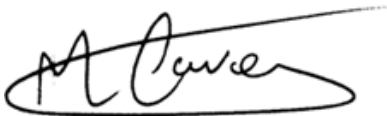
teacher to develop full insight into his behaviour and therefore mitigate against the risk of it being repeated in the future.

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 Daniel Usher-Clark is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 2029, five 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 Usher-Clark remains prohibited from teaching indefinitely.

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

Mr Usher-Clark has a right of appeal to 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 hand-drawn oval shape.

Decision maker: Marc Cavey

Date: 15 October 2024

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