



Teaching  
Regulation  
Agency

# **Mr Ashley Nixon: 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 Ashley Nixon

**Teacher ref number:** 1642230

**Teacher date of birth:** 4 August 1993

**TRA reference:** 20315

**Date of determination:** 29 October 2024

**Former employer:** Peters Hill Primary School, Brierley Hill

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 22 to 23 July 2024 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, and again virtually on 29 October 2024, to consider the case of Mr Ashley Nixon.

The panel members were Miss Sue Davies (lay panellist – in the chair), Mrs Erin Sudds (teacher panellist) and Mr Robert Dowey (teacher panellist).

The legal adviser to the panel was Miss Abigail Reynolds of Birketts LLP solicitors.

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

Mr Nixon was present virtually and was represented by Mr Nicholas Kennan of Cornwall Street Barristers.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 15 April 2024, as amended during the hearing.

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

1. He failed to maintain appropriate professional boundaries and/or engaged in inappropriate contact with one or more children, in that he:
  - a) Obtained the telephone numbers for Child 1 and/or Child 2;
  - b) Communicated with Child 1 and/or Child 2 by;
    - i) Telephone
    - ii) Snapchat
    - iii) Instagram
  - c) Sent one or more photographs/videos to Child 1 and/or Child 2 showing;
    - i) His genitals;
    - ii) His buttocks
  - d) Asked Child 2 to send him an image of his bottom;
  - e) Asked Child 1 and/or Child 2 to attend his home
2. His behaviour as may be found proven at 1(c) and/or 1(d) above was conduct of a sexual nature and/or was sexually motivated.

The panel noted that Mr Nixon denied the particulars of the allegations as set out in the response to the notice of hearing signed by Mr Nixon on 1 May 2024.

## Preliminary applications

### Application to give evidence via video link

On the first day of the hearing, the teacher's representative made an application for Mr Nixon to give evidence via video link. The teacher's representative submitted that Mr Nixon had recently suffered a sporting injury which had left him unable to travel. It was submitted that allowing Mr Nixon to give evidence via video link would ensure that there was no unfairness or delay caused to the TRA's witness, who was present at Cheylesmore House.

The presenting officer confirmed that there was no objection to the application and that it was the TRA's position that it would be fair in all the circumstances to continue on this basis.

The panel was referred to paragraph 5.77 of the Teacher misconduct: Disciplinary procedures for the teaching profession May 2020 ('the 2020 Procedures') in which it is stated that the procedure at a professional conduct panel hearing will be determined by the chair.

The panel considered that, in the circumstances, there would be no unfairness caused by Mr Nixon giving evidence via video link. Further, permitting Mr Nixon to give evidence via video link would allow the hearing to proceed in a timely manner. The panel therefore granted the application.

#### Application for special measures

The panel considered an application from the presenting officer requesting special measures on behalf of the TRA's witness, Child 2. The presenting officer submitted that Child 2 was [REDACTED] and therefore a child witness for the purpose of the 2020 Procedures. The presenting officer requested the following special measures:

- That Child 2 be permitted to give evidence without sight of Mr Nixon, namely behind a screen; and
- That Child 2 be accompanied by a witness supporter.

There was no objection to the application on behalf of Mr Nixon.

The legal adviser drew the panel's attention to paragraph 5.101 of the 2020 Procedures which states that a child is any person who is under the age of 18 at the start of a professional conduct panel hearing.

The panel's attention was further drawn to paragraph 5.103 of the 2020 Procedures in which it is stated that the panel will adopt such measures as it considers appropriate in order to safeguard the interests of a child. The panel was advised that this may include permitting the witness to give evidence behind a screen and the attendance of a witness supporter.

The panel was satisfied that Child 2 was a child for the purpose of the 2020 Procedures. Further, the panel was satisfied that it was in the interests of justice that the panel hear oral evidence from them at the PCPH, in order to allow Child 2 to give their best evidence.

The panel was also satisfied that no unfairness or disadvantage would result from Child 2 having the benefit of a witness supporter and from Child 2 giving evidence from behind a screen.

The panel granted the presenting officer's application.

#### Application to admit additional documents

The panel considered a preliminary application from the teacher's representative for the admission of additional documents.

The teacher's documents were:

- A list of Premier League 2021/22 fixtures dated 1 May 2022
- An extract from the [REDACTED] F.C. ('[REDACTED]') website confirming [REDACTED] pre-season schedule dated 2 July 2021

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

The presenting officer did not object to the application.

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

#### Application to amend an allegation

The presenting officer made an application to amend the stem of allegation 1(c) from "...sent one or more photographs/videos to Child 1 and/or Child showing..." to "sent one or more photographs/videos to Child 1 and/or Child 2 showing...".

The panel noted that the teacher did not object to the proposed amendment.

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

The panel considered that the proposed amendment would not change the nature and scope of the allegations in that the amendment sought only to clarify a clear typographical error and reflected the mutual understanding of the parties as to the case to be met. As such, the panel considered that the proposed amendment did not amount to a material change to the allegations.

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

Accordingly, the panel granted the application and considered the amended allegations, which are set out above.

## Summary of evidence

### Documents

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

- Section 1: anonymised pupil list – page 7
- Section 2: Notice of proceedings and response – pages 9 to 19
- Section 3: TRA witness statements – pages 21 to 27
- Section 4: TRA documents – pages 29 to 543
- Section 5: Teacher documents – pages 546 to 571

In addition, the panel agreed to accept the following:

- A list of Premier League 2021/22 fixtures dated 1 May 2022 (2 pages)
- An extract from the [REDACTED] F.C. ('[REDACTED]') website confirming [REDACTED] pre-season schedule dated 2 July 2021 (2 pages)

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

### Witnesses

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

- Child 2

The panel heard oral evidence from Mr Nixon.

## 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 Nixon was employed at Peters Hill Primary School ('the School') as a class teacher from September 2016 to October 2022.

On 27 September 2021, it is alleged that Mr Nixon sent a photograph and a video of an inappropriate nature to Child 1. On the same date, [REDACTED] of the School was contacted by a member of the public who alleged that Mr Nixon had been communicating with former pupils of the School, namely Child 1 and Child 2.

On 29 September 2021, Mr Nixon was interviewed by the West Midlands Police.

On 5 October 2021, Mr Nixon was suspended from the School.

In March 2022, the police investigation was closed with no further action.

The matter was referred to the TRA on 13 October 2022.

## **Findings of fact**

The findings of fact are as follows:

The panel found the following particulars of the allegations against you proved, for these reasons:

### **1. You failed to maintain appropriate professional boundaries and/or engaged in inappropriate contact with one or more children, in that you:**

#### **a) Obtained the telephone numbers for Child 1 and/or Child 2;**

#### **b) Communicated with Child 1 and/or Child 2 by;**

- i) Telephone**
- ii) Snapchat**
- iii) Instagram**

The panel considered the written and oral evidence of Child 2, a former pupil at the School.

Child 2's evidence was that, during 2021, when [REDACTED] was aged [REDACTED], [REDACTED] became aware that Mr Nixon was 'friends' with Child 1 on Snapchat. Child 2 stated that Mr Nixon would speak to Child 1 on Snapchat, and that Child 2 saw messages between Mr Nixon and Child 1.

Child 2 stated that they also became 'friends' with Mr Nixon on Snapchat. In their oral evidence, Child 2 stated that this occurred after an occasion where Child 1 had informed [REDACTED] that [REDACTED] was 'friends' with Mr Nixon, but Child 2 did not believe Child 1. Child 2 recalled saying words to the effect of "*no way it's him*", to which Child 1



responded with words to the effect of *“fine, I’ll get him to add you”*. Child 2 stated that Mr Nixon later ‘added’ [REDACTED] on Snapchat.

Child 2’s evidence was that they had Mr Nixon’s mobile number but that they could not recall how they obtained this.

Child 2’s evidence was that, after Mr Nixon added them on Snapchat, [REDACTED] and Mr Nixon developed a ‘streak’ on Snapchat for 101 days. Child 2 explained that a ‘streak’ meant that [REDACTED] and Mr Nixon had sent each other an image or message every day for 101 days.

Child 2 confirmed that Mr Nixon had ‘added’ them on Instagram, but that there had been limited communication on this platform.

Child 2 further stated that, on one occasion, while Child 2 was at Child 1’s house, Mr Nixon was speaking to Child 1 on the *“phone”*. During their oral evidence, Child 2 confirmed that the reference in their written evidence to a *“phone”* was a reference to a FaceTime call on Child 1’s iPad. To that end, the panel considered that a FaceTime call, being a method in which one can communicate via video or voice call with other Apple users, could reasonably fall within a wider category of ‘telephone’ or ‘phone’ call, irrespective of the device used.

Child 2 confirmed that both [REDACTED] and Child 1 were present during this FaceTime call.

The panel was provided with the notes of Child 2’s interview by the police on 29 September 2021. During this interview, Child 2 confirmed that they communicated with Mr Nixon, and that the communication was *“usually just normal”*. In respect of communications on Instagram, Child 2 confirmed to the police that Mr Nixon had added them on Instagram, but that there was nothing inappropriate on this platform.

The panel was provided with a written statement given to the police by Child 1’s [REDACTED] dated 29 September 2021, in which Child 1’s [REDACTED] stated:

*“Around a couple of weeks ago I found out that Mr Nixon was sending messages to [Child 1] on Snapchat which straight away I thought was odd. [Child 1] said they were talking about football mainly. I also saw some videos that Mr Nixon had sent [Child 1] showing him vaping... On the Sunday, I was looking at [Child 1’s] phone and noticed a number of calls to and from Mr Nixon...”*

The panel was provided with photographs of the call log from Child 1's telephone which noted 17 video or audio calls from or to Mr Nixon over a four-day period. These included Snapchat video and audio calls, a traditional telephone call and FaceTime video calls.

The panel was also provided with a transcript of some Instagram messages between Mr Nixon and Child 1 in which Mr Nixon was discussing [REDACTED] and in which Child 1 discussed Mr Nixon's potential arrest.

The panel considered the written and oral evidence of Mr Nixon, who admitted allegations 1(a) and 1(b). Mr Nixon acknowledged that it was inappropriate to be in contact with the children, however that the content of his communications was always appropriate in nature.

Mr Nixon accepted that he had obtained the telephone number for Child 1 and 2. He submitted that he obtained this at a [REDACTED] ('[REDACTED]') football match on 22 August 2021. Mr Nixon's evidence was that he was asked by Child 1 if Child 1 could have his mobile number to text about the football matches. Mr Nixon stated that he was *"very reluctant to do so from a professional perspective but did not wish to dishearten someone who I clearly felt was looking up to me as a role model"*.

Mr Nixon submitted that Child 1's [REDACTED] consented for both children's numbers to be provided, although the panel noted that, even if it was to accept Mr Nixon's account, Child 2's [REDACTED] were not present and unable to consent. Mr Nixon stated that he initially declined the offer of exchanging numbers, but he *"reluctantly"* accepted numbers from both as he did not wish to *"upset"* them. Mr Nixon stated that his personality is *"one which aims to please"* and that he *"would have felt awful if [he] had caused any upset"*. Mr Nixon stated that he understood that *"this was the wrong action to have taken"*.

In respect of Child 1's [REDACTED], Mr Nixon submitted that he knew Child 1's [REDACTED] socially, that they saw each other at [REDACTED] football matches and other sporting fixtures, and that, due to the nature of the activities they attended and their common interests, his relationship with the [REDACTED] went *"beyond a professional level"*.

The panel also considered the written evidence of the [REDACTED] of Child 1 provided for the purpose of these proceedings which stated that, in August 2021, they, Child 1 and Child 1's friend (who was not identified), saw Mr Nixon at a [REDACTED] football match. They stated that Child 1 and [REDACTED] friend wanted to give their telephone number to Mr Nixon, that he initially declined but that Mr Nixon later accepted, *"perhaps because he did not want to dishearten them"*. The evidence of Child 1's [REDACTED] was that texts were exchanged about football matches, and that they *"had no issues with this as we regularly monitor [Child 1's] phone, and [REDACTED] is open and honest"*.

The panel found this to be at odds with the statement given by Child 1's [REDACTED] to the police on 29 September 2021, a statement given contemporaneously with the events in question, in which there was no mention of how Child 1 had obtained Mr Nixon's telephone number, and in which Child 1's [REDACTED] stated, "*Around a couple of weeks ago I found out that Mr Nixon was sending messages to [Child 1] on Snapchat which straight away I thought was odd...*". The panel noted, in particular, that Child 1's [REDACTED] had indicated that she had only been aware of communications for "*a couple of weeks*" and that she found the communication "*odd*". The panel was concerned that the account given by Child 1's [REDACTED] to the police on or around 29 September 2021 was substantially different to the statement provided for the purpose of these proceedings, given in May 2024.

In any event, the panel considered the evidence presented to it and noted Mr Nixon's admissions in respect of allegations 1(a) and 1(b). The panel found that it was more likely than not that Mr Nixon had obtained the telephone numbers for Child 1 and Child 2 and communicated with Child 1 and/or Child 2 via telephone, Snapchat and Instagram.

The panel then went on to consider whether such conduct amounted to a failure to maintain appropriate professional boundaries and/or inappropriate contact. The panel considered that communicating with former pupils in such a manner, and particularly given that the pupils in question were aged only [REDACTED], amounted to a clear failure to maintain appropriate professional boundaries. The panel did not consider that any alleged relationship with the [REDACTED] of Child 1, nor any alleged consent from Child 1's [REDACTED], detracted from the inappropriate nature of Mr Nixon's actions.

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

**c) Sent one or more photographs/videos to Child 1 and/or Child 2 showing;**

**i) Your genitals;**

**ii) Your buttocks**

**d) Asked Child 2 to send you an image of his bottom;**

At the outset of the hearing, Mr Nixon admitted allegation 1(c) insofar as he admitted that he had sent a photograph showing his buttocks and a video showing his genitals to Child 1. However, Mr Nixon's position was that he had done so in error and that the photograph and video had been intended for an adult female friend. Mr Nixon denied allegation 1(c) in respect of Child 2.

Mr Nixon denied allegation 1(d).

In respect of Child 1, the panel considered the witness statement provided to the police by Child 1's [REDACTED], in which Child 1's [REDACTED] stated that on 27 September 2021, she was in Child 1's room and their mobile phone "*lit up*". Child 1's [REDACTED] noted Snapchat notifications from 'Nixon' sent 24 minutes ago at around 5.15am. Child 1's [REDACTED] informed the police that she "*knew the Snapchat conversation would disappear*", so she took Child 1's mobile phone into her room and took a video of the Snapchat message on her own mobile.

Child 1's [REDACTED] informed the police that, as the Snapchat message opened, a picture of a man laying on his front showing his bare buttocks appeared. She then saw a video showing a pair of boxers being opened, showing the tip of a penis. Child 1's [REDACTED] stated that both were sent by 'Nixon', who she knew to be Mr Nixon.

Child 1's [REDACTED] stated that she "*felt physically sick*" and "*confronted*" Child 1, who informed her that they had received one other similar photograph previously, namely Mr Nixon's "*bare bum but standing*".

Child 1's [REDACTED] informed the police that she spoke to Child 2, who confirmed that they had been sent similar messages.

Child 1's [REDACTED] stated that Child 1 and Child 2 "*both just wanted to block him and leave it*", but that she spoke to a [REDACTED] who immediately reported the incident.

In respect of Child 1, and as set out above, Mr Nixon accepted that he "*inadvertently sent images of an intimate nature, intended for a friend, to Child 1*". Mr Nixon stated that, once he was informed that the alleged mistake had been made, he was able to put forward a "*clear version of events and recognised [his] error*". Mr Nixon submitted that he had intended to send the messages to a female friend, contact with whom was "*mutually consensual*". In his written evidence, Mr Nixon submitted that the application, Snapchat, had 'synced' his phonebook, and that Child 1's name was next to that of his female friend alphabetically. Mr Nixon stated that he "*rushed*" and clicked one name down from the intended recipient. In his oral evidence, Mr Nixon acknowledged that he would have had to have sent the photograph and the video separately. Mr Nixon's account was that he made a further error in relation to the subsequent video by clicking the 'most recent' button without checking who that contact was.

In his oral evidence, Mr Nixon stated that Child 1 had sent him a photograph of their bottom when Child 1 was in a [REDACTED]. Mr Nixon stated that this took place in September 2021 and was sent to his Snapchat account with no explanation or discussion. Mr Nixon acknowledged that this should have been reported at the material time due to his professional boundaries but that he had failed to do so.

The panel was provided with copies of two written statements made by Individual A, [REDACTED] of Mr Nixon and the alleged intended recipient of the photograph and

video. The first statement, which was provided to the police, stated that Individual A did not have a sexual relationship with Mr Nixon, but that they would often send pictures and messages. To that end, Individual A stated it *“would not surprise [her] at all”* if Mr Nixon had sent her a *“Belfie”* or a *“selfie of his bum”*. The statement did however confirm that Mr Nixon had never sent her a picture of his penis.

In her written statement provided for the purpose of these proceedings, Individual A reiterated that she and Mr Nixon would often send pictures and messages to each other of a *“silly and inappropriate nature”* as a *“joke”*. Individual A further stated that she was *aware that the picture that [Mr Nixon] is alleged to have sent to an incorrect recipient was an inappropriate message, he has been open about the allegation and has remained true to his word throughout”*.

The panel did not hear evidence from Child 1 or Child 1’s [REDACTED] but was provided with a written statement from Child 1’s [REDACTED] dated 8 May 2024 in support of Mr Nixon. In this statement, Child 1’s parents stated that, in respect of the matter being brought to the attention of the police, they were *“unaware that [my] friend disclosed our conversation”* and that *“this person reported it without us knowing”*. The panel noted that this was at odds with Child 1’s [REDACTED] statement to the police.

The statement of Child 1’s [REDACTED] dated 8 May 2024 went further to state that they believe that Mr Nixon *“did not act with any deliberate malice and accept it was an error on his part”*.

The panel considered whether Mr Nixon had sent the photograph and video to Child 1 and, if so, if he had done so inadvertently.

The panel accepted that Mr Nixon had sent the photograph and video to Child 1, however, for the reasons set out below, the panel did not accept that Mr Nixon had done so inadvertently.

The panel noted that Mr Nixon appeared to be an experienced Snapchat user who was aware that he had underage children as ‘friends’ on Snapchat. The panel understood that it would have been necessary to send the photograph and the video separately, involving two distinct physical acts. The panel considered it implausible that, in the circumstances, Mr Nixon would have been so reckless as to send two inappropriate images to the wrong recipient. This was particularly relevant given that, by his own admission, Mr Nixon had previously received an inappropriate photograph from Child 1 of their naked bottom in a [REDACTED], which he had failed to report. In addition, the panel also noted that contemporaneous evidence provided by Child 1’s [REDACTED] indicated that, in fact, Mr Nixon had previously sent a similar image to Child 1.

The panel also did not accept that the evidence of Individual A proved that she was the intended recipient. The panel was particularly concerned that Individual A statement had

been provided on the basis that Mr Nixon had been *“open about the allegation and has remained true to his word throughout”*, yet Mr Nixon admitted in his oral evidence that he had not informed Individual A that the content of the video involved his penis. The panel considered this to be relevant given that Individual A evidence was that she had never been sent a picture of Mr Nixon’s penis before.

In respect of Child 2, the panel considered the note of Child 2’s interview with the police dated 29 September 2021 in which Child 2 informed the police that Mr Nixon had sent them a *“picture of his arse”*. Child 2 informed the police that Mr Nixon was *“lying on his front with his trousers pulled down so you could see his bare arse”*. Child 2 informed the police that Mr Nixon had sent three or four different photographs of his *“arse”* on separate occasions. In their interview, Child 2 informed the police that [REDACTED] asked Mr Nixon *“are you a paedo?”*, to which Mr Nixon said *“no, why would I be a teacher if I was?”*.

The panel further noted that, during the police interview, Child 2 informed the police that, on Mr Nixon’s birthday, Mr Nixon had asked Child 2 for a picture *“of [[REDACTED]] arse”*. Child 2 informed the police that [REDACTED] responded *“no, gay boy”*, to which Mr Nixon responded, *“it’s just banter”*.

The panel also noted the written statement of Child 1’s [REDACTED], provided to the police, in which she stated *“we also spoke to [Child 2] who said that [REDACTED] had been sent similar messages. [Child 1] and [Child 2] both just wanted to block him and leave it but I spoke to [REDACTED] and he immediately reported it for us”*.

The panel further considered the written and oral evidence of Child 2, which in the panel’s view accorded with the evidence provided by Child 2 to the police in September 2021.

During their oral evidence, Child 2 was asked how they had identified Mr Nixon as the sender of the photographs. Child 2 stated that the photographs came from Mr Nixon’s account and that they recognised the background of the photographs from a previous video call with Mr Nixon.

Further during their oral evidence, Child 2 stated that their communication with Mr Nixon began during the European Championship in 2021. Child 2 stated that this began during one of the earlier matches, which would have been around the middle of June 2021. However, during cross-examination, Child 2 stated that they believed that they began communicating with Mr Nixon during the summer holidays, which would not have started until towards the end of July 2021. Mr Nixon’s representative submitted that this demonstrated inconsistencies in Child 2’s account, and that the correct timeline was that submitted by Mr Nixon, namely that communication with either Child 1 or Child 2 did not start until 22 August 2021, this being the first [REDACTED] home match of the season.

However, to this end, the panel found Child 2's evidence as to the timings of the communications to be credible. The panel considered that it was more likely than not that the reference to the school holidays was an error resulting from the passage of time between the events and Child 2's cross-examination, along with the proximity of the end of the European Championship in the middle of July 2021 and the start of the school holidays. The panel noted that Child 2 confirmed in their police interview, as of 29 September 2021, they had been communicating with Mr Nixon for at least a "*couple of months*", a period evidently longer than that between the date of the police interview and 22 August 2021. The panel considered Child 2's account accorded with their evidence as to the length of the Snapchat streak, namely 101 days. The 101-day period was also consistent with the period between the earlier European Championship football matches, which took place in the middle of June 2021 and when communications ceased at the end of September 2021. The panel preferred Child 2's evidence in that regard.

In respect of the allegations as they relate to Child 2, Mr Nixon denied that he sent Child 2 an inappropriate image. Mr Nixon submitted that this "*did not occur and has never been substantiated*". Mr Nixon stated that the police seized his devices and found no evidence to support this allegation. Further, Mr Nixon referred to an investigation report prepared by the Football Association ('the FA') dated 5 August 2022 in which it stated that the police confirmed there was "*no evidence to draw upon in relation to the second child*".

The panel did not accept Mr Nixon's submissions in this regard. In respect of the lack of physical evidence, the panel noted that it was acknowledged by Mr Nixon that, when using Snapchat, photographs and messages will "*disappear*" after opening. The panel therefore concluded that use of the Snapchat app could, by its very nature, result in an absence of physical evidence. Therefore, the panel made its determination by reference to the contemporaneous witness evidence obtained by the police in respect of the issues in question. Further, the panel found Child 2 to be a credible and plausible witness, providing an accurate and consistent account.

For the reasons set out above, the panel considered that, on the balance of probabilities, Mr Nixon sent one or more photographs and/or videos of his genitals and/or buttocks to Child 1 and/or Child 2. The panel did not accept that Mr Nixon sent the photograph or video to Child 1 in error.

Further, the panel considered that it was more likely than not that Mr Nixon asked Child 2 to send him an image of [REDACTED] bottom.

The panel considered that any conduct involving sending or requesting images of a bottom or genitals from a child aged [REDACTED] would amount to a failure to maintain appropriate boundaries. The panel considered that such conduct was inherently inappropriate in nature.

The panel found allegations 1(c) and 1(d) proven.

### **e) Asked Child 1 and/or Child 2 to attend your home**

The panel further considered the evidence of Child 2 in which they stated that on one occasion, and as set out above, Mr Nixon was speaking to Child 1 and Child 2 on FaceTime.

Child 2 submitted that, during this FaceTime call, Mr Nixon informed Child 1 and Child 2 that he was moving into a new house and invited Child 1 and Child 2 to go round, but that they did not attend.

The panel further considered the notes of Child 2's interview with the police dated 29 September 2021 in which Child 2 had confirmed that Mr Nixon informed them that he had moved into a new house and said words to the effect of *"If you want you can come round later and have a look at it"*.

The panel further considered the statement provided to the police by Child 1's [REDACTED], in which she confirmed that, on 25 September 2021, she received a text from Child 1 asking if he and Child 2 could go and see Mr Nixon's new house. Child 1's [REDACTED] stated *"Again I said no, as I didn't think this was right."*

The panel noted that the statement given by Child 1's [REDACTED] for the purpose of these proceedings did not address this allegation.

Mr Nixon denied inviting Child 1 and/or Child 2 to his home address, although in his oral evidence acknowledged that neither child would have known about his moving house unless he had informed them of that fact.

The panel considered the evidence presented to it, and in particular the evidence of Child 1's [REDACTED] and Child 2 given to the police contemporaneously with the event in question. The panel considered that it was more likely than not that Mr Nixon invited Child 1 and/or Child 2 to see his new home.

The panel considered that Mr Nixon's actions in inviting children aged [REDACTED] to his home, and in particular children who were former pupils, amounted to both a failure to maintain appropriate professional boundaries and inappropriate contact. As set out above, the panel did not consider that Mr Nixon's relationship with the family of Child 1 detracted from the inappropriate nature of such action and noted that, in any event, there was no such relationship with the [REDACTED] of Child 2.

The panel therefore found allegation 1(e) proven.

### **2. Your behaviour as may be found proven at 1(c) and/or 1(d) above was conduct of a sexual nature and/or was sexually motivated.**

The panel noted that during the hearing Mr Nixon admitted that the photograph and video sent to Child 1 were sexual in nature, albeit Mr Nixon alleged that he had sent the



photograph and video inadvertently. Notwithstanding this, the panel made a determination based on the evidence available to it.

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

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

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

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

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

As set out above, the panel found that Mr Nixon had sent one or more photographs and/or videos of his naked bottom and/or genitals to two children who, at the time, would have been aged [REDACTED]. The panel also found that Mr Nixon had requested a picture of Child 2's bottom.

The panel considered that such conduct, given that it involved sending and requesting photographs and/or videos of intimate body parts, was inherently sexual in nature.

The panel then went on to consider whether Mr Nixon's conduct, as found proven, was sexually motivated. The panel considered that, on the balance of probabilities, Mr Nixon's conduct in sending photographs and videos, along with requesting a photograph of a child, all of which were of an intimate and sexual nature, was sexually motivated. Given that the panel did not accept Mr Nixon's submission that the photograph and video were

sent to Child 1 inadvertently, the panel concluded that there was no evidence of any other plausible innocent explanation for such conduct.

The panel therefore found allegation 2 proven.

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

Having found the allegations proved, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as “the Advice”.

The panel was satisfied that the conduct of Mr Nixon, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Nixon 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
- 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 Nixon amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

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

The panel did not consider that the conduct found proven was conduct which took place outside the education setting given that the relationship between Mr Nixon and Child 1 and Child 2 developed as a result of his position at the School, insofar as Child 1 and Child 2 were former pupils at the School and still of school age. In any event, even if the conduct were deemed to be conduct which took place outside of the education setting,

Mr Nixon's actions were relevant to his profession as a teacher in that he engaged in sexual communication with a child or children aged [REDACTED].

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

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

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

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

Having found the facts of allegations 1 and 2 proved, the panel further found that Mr Nixon's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

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

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

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

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

In the light of the panel's findings against Mr Nixon, which involved inappropriate contact with one or more children which was sexually motivated, there was a strong public interest consideration in respect of the protection of pupils and the protection of other members of the public.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nixon was not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Nixon was outside that which could reasonably be tolerated.

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

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Nixon. 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; and
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position.

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

There was no evidence that Mr Nixon's actions were not deliberate and there was no evidence to suggest that Mr Nixon was acting under extreme duress.

There was no evidence that Mr Nixon demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector. However, the panel was provided with evidence to attest to Mr Nixon's character and ability as a teacher.

Mr Nixon provided written character references from the following individuals:

- Individual B
- Individual C, [REDACTED] of Mr Nixon
- Individual A, [REDACTED] of Mr Nixon
- Individual D and Individual E, [REDACTED] of Child 1

The written evidence contained positive comments about Mr Nixon and his ability as a teacher. The panel noted the following in particular:

- *“I have always found Ashley to be honest, hardworking and very dedicated...”*

Individual B

- *“As a teacher, I cannot fault him...He is extremely organised and prepared and has a fantastic work ethic – possibly the best I have ever seen.”*

Individual C

- *“He is a caring and committed individual that will always strive to achieve the best for himself and others around him.”*

Individual A

- *“...we were always aware of how good a teacher he was, through discussions with other parents at the school, lots of whom would say how brilliant he was at his job.”*

Individual D and Individual E, [REDACTED] of Child 1

The panel considered the written and oral evidence of Mr Nixon, who stated that he knew Child 1's [REDACTED] socially and that his relationship with the [REDACTED] went beyond a professional level. Mr Nixon stated that he had regular contact with the [REDACTED] in the past few years and helped Child 1 as a family friend with homework and exam revision.

Mr Nixon stated that he has taken steps to address his own lifestyle choices and boundaries, particularly in relation to social media and e-safety. Mr Nixon stated that he feels great shame over his actions, [REDACTED].

[REDACTED].

Mr Nixon stated that he has limited his used of social media, and the platforms he does use are of the highest privacy and security settings. He stated that he would never accept a friend request from any pupil or former pupil and fully understands his professional responsibilities even more so now.

Mr Nixon stated that the School provided regular training sessions linked to safeguarding, policies and health and safety. He stated that he has attended over 30 sessions and took every session seriously.

Notwithstanding Mr Nixon's submissions, the panel considered that there was very limited evidence that Mr Nixon had shown insight or remorse into his actions. The panel found that Mr Nixon had failed to recognise the potential impact of his actions on Child 1, Child 2 and their families.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Nixon of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Nixon. The seriousness of the conduct, which the panel had found to be sexually motivated and involving children, was a significant factor in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of the behaviours outlined included any sexual misconduct involving a child. The panel found that Mr Nixon's conduct amounted to sexual misconduct involving a child and that this had the potential to result in significant harm to Child 1 and Child 2.

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

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

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

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

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

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

In particular, the panel has found that Mr Nixon 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
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

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

The findings of misconduct are particularly serious as they include a finding of inappropriate communication with children, conduct found to be sexually motivated.

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

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel has observed, “In the light of the panel’s findings against Mr Nixon, which involved inappropriate contact with one or more children which was sexually motivated, there was a strong public interest consideration in respect of the protection of pupils and the protection of other members of the public.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “Mr Nixon stated that he has taken steps to address his own lifestyle choices and boundaries, particularly in relation to social media and e-safety. Mr Nixon stated that he feels great shame over his actions.” The panel has also commented that “Notwithstanding Mr Nixon’s submissions, the panel considered that there was very limited evidence that Mr Nixon had shown insight or remorse into his actions. The panel found that Mr Nixon had failed to recognise the potential impact of his actions on Child 1, Child 2 and their families.” In my judgement, the lack of full insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Nixon was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of sexual motivated conduct involving children in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Nixon himself and the panel comment “There was no evidence that Mr Nixon demonstrated exceptionally high standards in both personal and professional conduct and has contributed significantly to the education sector. However, the panel was provided with evidence to attest to Mr Nixon’s character and ability as a teacher.” Which included positive character references seen by the panel.



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

In this case, I have placed considerable weight on the panel's comments regarding risk of harm "The panel found that Mr Nixon's conduct amounted to sexual misconduct involving a child and that this had the potential to result in significant harm to Child 1 and Child 2".

I have also placed considerable weight on the finding that "The panel did not consider that the conduct found proven was conduct which took place outside the education setting given that the relationship between Mr Nixon and Child 1 and Child 2 developed as a result of his position at the School, insofar as Child 1 and Child 2 were former pupils at the School and still of school age. In any event, even if the conduct were deemed to be conduct which took place outside of the education setting, Mr Nixon's actions were relevant to his profession as a teacher in that he engaged in sexual communication with a child or children aged [REDACTED]."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Nixon 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 serious circumstances in this case, that is not backed up by full remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended that no provision should be made for a review period.

I have considered the panel's comments "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. One of the behaviours outlined included any sexual misconduct involving a child. The panel found that Mr Nixon's conduct amounted to sexual misconduct involving a child and that this had the potential to result in significant harm to Child 1 and Child 2."

In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings and the lack of full insight or remorse.

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

**This means that Mr Ashely Nixon is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or**

**children's home in England.** Furthermore, in view of the seriousness of the allegations found proved against him, I have decided that Mr Nixon shall not be entitled to apply for restoration of his eligibility to teach.

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

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

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

**Decision maker: Sarah Buxcey**

**Date: 31 October 2024**

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