



Teaching
Regulation
Agency

Mr Stephen Kenyon: Professional conduct panel outcome

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

November 2024

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

Teacher: Mr Stephen Kenyon
Teacher ref number: 1170019
Teacher date of birth: 29 January 1968
TRA reference: 22127
Date of determination: 6 November 2024
Former employer: The School

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 4 to 6 November 2024 by way of a virtual hearing, to consider the case of Mr Kenyon.

The panel members were Mr Terry Hyde (former teacher panellist – in the chair), Ms Laura Mullin (lay panellist) and Mrs Lynn Seal (teacher panellist).

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

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

Mr Kenyon was not present or represented at the hearing.

The hearing took place in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 31 July 2024.

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

1. Between 2018 and 2019, he touched Pupil B in an inappropriate manner in that he:
 - a) On one or more occasions touched and/or put his hand(s) on her shoulder(s) and/or back; and/or
 - b) On one or more occasions touched her on and/or near her breast(s); and/or
 - c) On one or more occasions touched and/or put his hand on her hand;
2. On or around 11 June 2021, he touched Pupil D in an inappropriate manner in that he:
 - a) Put his hand under her armpit; and/or
 - b) Touched her bra and/or near her breast with his hand/finger(s);
3. His conduct at paragraphs 1 and/or 2 above was of a sexual nature.

In the response form to the Notice, Mr Kenyon confirmed that the allegations were not admitted.

Preliminary applications

Application to proceed in the absence of Mr Kenyon

The panel considered an application from Mr Bridges to proceed in the absence of Mr Kenyon.

Mr Bridges submitted that Mr Kenyon had expressly made his position clear in correspondence with the TRA. This included:

- In email correspondence dated 11 January 2024, Mr Kenyon emailed the TRA and stated: *"I do not wish to participate in your investigation... Your case I am afraid will have to run in my absence..."*;
- In the notice of allegations response form, dated 18 August 2024, Mr Kenyon confirmed he would not be engaging in these proceedings;

- In email correspondence, dated 20 August 2024, on Mr Kenyon's behalf, which stated: *"I have sent a response to the misconduct email already, stating Steve will not be attending the hearing. Steve does NOT want to participate in this process."*

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, as derived from the guidance set down in the case of *R v Jones* [2003] 1 AC 1 (as considered and applied in subsequent cases, particularly *GMC v Adeogba*; *GMC v Visvardis* [2016] EWCA Civ 162).

The panel was satisfied that the Notice of Proceedings ("the Notice") had been sent in accordance with Rules 5.23 and 5.24 of the Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2000 ("the Procedures") and that the requirements for service had been satisfied. Furthermore, Mr Kenyon was clearly aware of the hearing and had responded to the Notice, confirming that he will not be attending.

The panel went on to consider whether to proceed in Mr Kenyon's absence or to adjourn, in accordance with Rule 5.47 of the Procedures.

The panel had regard to the fact that its discretion to continue in the absence of a teacher should be exercised with great caution and with close regard to the overall fairness of the proceedings. The panel gave careful consideration to the fact that Mr Kenyon is not in attendance and will not be represented at this hearing, should it proceed, and the extent of the disadvantage to him as a consequence.

On balance, the panel decided that the hearing should continue in the absence of Mr Kenyon for the following reasons:

- Mr Kenyon had not sought an adjournment and there was no medical evidence before the panel which indicated that Mr Kenyon was unfit to attend the hearing due to ill-health.
- The panel was satisfied that Mr Kenyon's absence was voluntary and he had waived his right to attend.
- Given Mr Kenyon's non-engagement, there was no indication that he might attend at a future date such that no purpose would be served by an adjournment.
- There is a public interest in hearings taking place within a reasonable time.
- There is a burden on all professionals who are subject to a regulatory regime to engage with their regulator.
- There are witnesses present to give evidence to the panel who would be significantly inconvenienced were the hearing to be adjourned.

Having decided that it is appropriate to proceed, the panel would strive to ensure that the proceedings are as fair as possible in the circumstances, bearing in mind that Mr Kenyon is neither present nor represented.

Summary of evidence

Documents

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

Section 1: Chronology and anonymised pupil list – pages 5 to 6

Section 2: Notice of proceedings and response – pages 7 to 21

Section 3: Teaching Regulation Agency witness statements – pages 22 to 35

Section 4: Teaching Regulation Agency documents – pages 35 to 659

The panel members confirmed that they had read all of the documents within the bundle.

Witnesses

The panel heard oral evidence from the following witnesses called on behalf of the TRA:

- Witness A;
- Pupil B ([REDACTED]);
- Pupil E ([REDACTED]).

No witnesses were called on behalf of 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 Kenyon was employed as a Subject Leader for [REDACTED] at the School from 2013.

Pupil D and Pupil E were pupils at the School and were taught [REDACTED] lessons by Mr Kenyon.

On Friday 11 June 2021, the mother of Pupil D, [REDACTED], called the School to advise that Pupil D had told her mother that Mr Kenyon had touched the side of her breast, with his fingers along the seam of her bra during a lesson.

On Monday 14 June 2021, the Local Authority Designated Officer (“LADO”) contacted the School. The LADO told the School that the police had informed them a parent of Pupil D had contacted the police over the weekend and the police had initiated their own criminal investigation.

In August 2021, the School was informed by the police and LADO, that it could continue with its own internal investigation as the police were taking no further action. At the start of the new academic year, the School undertook a number of interviews with relevant pupils and Mr Kenyon. In September 2021, Pupil B disclosed to a pastoral staff member at the School that Mr Kenyon had inappropriately touched her during lessons in the academic year of 2018/19, whilst she was in [REDACTED] and that she had also explained this to the police whilst being asked questions about Pupil D’s allegations. This concern then also formed part of the School’s internal investigation.

Later in September 2021, the School was further advised by the LADO to pause its investigation, as the original police decision to take no action was subject to a review. Following this review, Mr Kenyon was charged with sexually assaulting Pupil D. He stood trial in July 2022 at [REDACTED] Crown Court (“the Crown Court”) and was found ‘not guilty’ of the charge by the jury.

Following the conclusion of the criminal proceedings, the School was informed it could continue its internal investigation. At the conclusion of the School’s internal investigation and disciplinary processes, it made a referral to the TRA, which has resulted in this hearing.

It is helpful to set out at this point that it is a settled legal position that a professional regulator can bring disciplinary proceedings in relation to the same conduct which was subject to an acquittal in the criminal courts. The higher courts have highlighted (such as in the case of *Ashraf v General Dental Council* [2014] EWHC 2618 (Admin)), that the nature of regulatory proceedings has a different purpose to criminal proceedings, there are different rules of evidence and a different (lower) standard of proof that apply in these proceedings.

The previous investigations in this case give this panel the ability to assess the evidence of various witnesses and Mr Kenyon from:

- Their accounts given in the School’s internal investigation and disciplinary processes;
- Their accounts to the police in its criminal investigation;
- Their accounts in oral evidence during the Crown Court trial;
- Their accounts to the TRA during its investigation;
- Their accounts in oral evidence at this TRA hearing.

Whilst the panel took into consideration the previous accounts given by relevant persons in these investigations, the panel gave no weight to the conclusions made by others in those investigations. It has assessed the case only on the evidence placed before it.

In making its findings the panel has followed the guidance of its legal adviser in regard to assessing the evidence.

The panel has taken into account Mr Kenyon's previous 'good character', in so far as there were no formal previous regulatory matters against him. Mr Bridges confirmed that the TRA were not seeking an 'adverse inference' to be drawn as a result of Mr Kenyon's failure to give evidence. The panel has not drawn any such inference in determining the facts in this case.

Although Mr Kenyon was not present at this hearing, it was clear from his communications with the TRA and his accounts in the other investigations that he denied the allegations. There did not appear to be any conflict in the evidence in regards to the times, locations and pupils involved. The apparent main conflict in the evidence before the panel was whether the touching took place or not.

Findings of fact

The findings of fact are as follows:

1. Between 2018 and 2019, you touched Pupil B in an inappropriate manner in that you:

- a) On one or more occasions touched and/or put your hand(s) on her shoulder(s) and/or back; and/or**
- b) On one or more occasions touched her on and/or near her breast(s); and/or**
- c) On one or more occasions touched and/or put your hand on her hand;**

The panel noted the following key evidence for this allegation:

Evidence of Pupil B

Pupil B's evidence to the panel was that she attended the School from Years 7 to 11, finishing in the summer of 2023. Pupil B first met Mr Kenyon in [REDACTED] as he taught her [REDACTED].

Pupil B explained that she was aware that a police investigation was taking place in regard to the allegations about Pupil D and that she was asked to provide a statement to the police about her knowledge of those events. Pupil B stated that during that process, she told the police about herself also being inappropriately touched by Mr Kenyon.

In her police statement, Pupil B stated:

“About [two] plus years ago he was teaching me IT when he placed his hands on my shoulders fully and for an overly prolonged time. If showing me anything on the computer he would place his hand on top of my hand whilst operating the mouse. This would make me feel uncomfortable and I remember exchanging meaningful looks with a friend [Pupil K].”

Pupil B also remarked in her police statement that Mr Kenyon had a reputation for being overly friendly with female pupils.

Pupil B stated that when she returned to school for the new school year in September 2021, she spoke to the School’s pastoral support about the police investigation and that she told the police about Mr Kenyon touching her inappropriately in [REDACTED]. As a result of telling the School, Pupil B explained she was further asked to talk to Witness A about this and provide a written statement.

In her TRA statement, dated 7 May 2024, Pupil B stated:

“[Mr] Kenyon would often put his hand on top of my hand on the computer mouse. He would be stood behind me, talking to me about the work we were doing, and would be looking at my computer screen. He would usually ask male students to move out of the way so he could show them something on the computer screen, but with me, he would not ask me to move and would instead put his hand on top of my hand in order to move the computer mouse.

The length of time he would put his hand on top of mine would vary [between] about 20 seconds to 1 minute...

[Mr] Kenyon would also often come up behind me during class and put his hand over my shoulder. I was sitting at the time. Sometimes, he would slide his hands down from my shoulder, so his hand would be resting more on my chest, very close to my breasts. This was over clothing...

[Mr] Kenyon also used to rub my back. I would be sitting down, during the lesson, and he would come over and stroke my back. He would just place both his hands on my back, over my clothing.”

In regards to the location of Mr Kenyon’s hands on her chest, Pupil B indicated that it was just below the clavicle bone.

Pupil B was asked about her relationship with Pupil D. She stated they were mutual friends for numerous years. She wouldn’t describe them as ‘best friends’ and only had limited contact with Pupil D outside of school.

Pupil B was further asked why she did not raise the allegations against Mr Kenyon at an earlier point in time. Pupil B stated that when the police interviewed her, she was told to 'tell them everything' and she thought it was better to tell an official, rather than anyone else.

Evidence of Witness A

Witness A's evidence was that she is currently the [REDACTED] at the School, and at the material times of these allegations was [REDACTED] and the [REDACTED]. Witness A stated that on 10 September 2021, she was informed by the School's pastoral support that Pupil B had disclosed inappropriate touching by Mr Kenyon. In an email to Witness A that day, the pastoral support noted that Pupil B had said to her:

"In [REDACTED], on 'multiple occasions [Mr Kenyon] came up behind me without warning and put his hand on mine on the mouse' 'It made me very uncomfortable'...

Again, without warning, she said he would often put his hands on her shoulders, and at times, move his hands down her back a little.

He would sometimes slide his hands down from her shoulders towards her breasts. She indicated and showed me this, lower than clavicle, on the breast area either side."

As a result of Pupil B's disclosure, Witness A wrote to Mr Kenyon on 10 September 2021 informing him that a further pupil had raised an allegation of inappropriate touching and requested a meeting with him on 14 September to discuss the concern.

Witness A stated she then met with Pupil B on 13 September 2021 to discuss this further and exhibited a copy of the notes she took. They recorded that:

"[Pupil B] said that the reason she had made the disclosure in her [REDACTED] session was because the situation had prompted her to think back to previous stuff. She went on to say –

In [REDACTED] he would come up behind me, unannounced and put his hand over mine on the mouse, multiple times. It made me feel uncomfortable. He was also regularly put his hands, both of them, over the top of my shoulder like this.

** then gestured her hands on her shoulders, finger tips pointing downwards*

I could feel something when it was there, not like on my nipples but just above. This was less frequently but it did happen.

I asked if she was able to tell me how frequently and she replied she could not answer that as it was a long time ago.

I asked if Mr Kenyon had ever spoken to her whilst his hands were on her and she replied no.”

Mr Kenyon was told of the allegation (in relation to hand touching and touching near the breast). Mr Kenyon is recorded as stating in the notes of the meeting:

“I refute both of them. If I ever need to show a student something on a computer, I would always ask them to let me have the mouse, I would never put my hand on theirs... I don't know who she is.”

Following the meeting, Witness A stated that she received an email from Mr Kenyon on 17 September 2021 which set out again that he denied touching Pupil B's hand, shoulder or chest. He referred to the allegation as fabricated and not true.

Witness A was asked about the relationship between Pupil B and Pupil D. She stated that they were in the same wider friendship group, but she did not think they were particularly close or socialised outside of school much.

Other documentary evidence

Before the panel was a copy of the notes from the School's disciplinary hearing on 8 March 2023. In this document it is recorded that Mr Kenyon again denied touching Pupil B in any fashion. He highlighted that Pupil B and Pupil D were close friends and queried why Pupil B did not raise the allegation for three years, if it were true.

Also before the panel was a copy of the notes from Mr Kenyon's appeal hearing on 18 May 2023, following the conclusion of the initial disciplinary hearing. In this document, Mr Kenyon took the same position as raised in his original disciplinary hearing.

Panel's finding and reasons

The panel took into account the lack of contemporaneous documentary evidence available for this allegation, which was primarily the result of Pupil B not raising these allegations until a number of years after they occurred. Accordingly, this was an allegation where it was essentially 'one word against another' and careful consideration was required to be given to the credibility of these conflicting positions.

The panel took into account that Pupil B's evidence was broadly consistent in its various iterations before the panel. The panel noted that there was no mention of touching of the chest area in the police statement, but was otherwise raised in all other accounts, including in her initial disclosure to the School's pastoral support. The panel considered the absence of mentioning this issue, in only one of the number of accounts provided by Pupil B over the various investigations, as not being so significant that it would call into question the reliability of her account to a fundamental degree.

Although Mr Kenyon was not present at this hearing, it was clear to the panel that his position appeared to be that there was some level of collusion between Pupil B and Pupil D as a result of their close friendship. This was explored in the evidence before this panel and there was no evidence of any collusion and the evidence did not appear to demonstrate a particularly close relationship between these two pupils. Accordingly, the panel considered that the alternative explanation advanced by Mr Kenyon lacked credibility.

The panel also took into account the surrounding evidential picture from pupils and staff which suggested Mr Kenyon was often in close proximity with female pupils (as set out in detail for Allegation 2) as lending credence to Pupil B's account. The panel also accepted Pupil B's explanation for the delay in her raising the allegations as being reasonable and it did not appear to undermine the reliability of her account.

Accordingly, the panel was satisfied that it was more likely than not that Mr Kenyon had touched Pupil B on her shoulder, hands and upper chest (in so far as that could be considered as 'near her breasts').

The panel then considered whether such contact would be considered 'inappropriate'. In her evidence, Witness A explained that safeguarding procedures were ingrained in a teacher's practice and there was a strict 'no physical contact' practice with pupils, unless there was a very good reason, such as to protect a pupil from immediate harm. The panel considered this evidence was entirely consistent with its own understanding as to the profession's general practice regarding this issue. In the absence of any evidence to suggest that it was necessary for Mr Kenyon to make physical contact with Pupil B on these occasions, the panel was satisfied that such contact would be inappropriate.

Accordingly, the panel found Allegation 1 proved.

2. On or around 11 June 2021, you touched Pupil D in an inappropriate manner in that you:

a) Put your hand under her armpit; and/or

b) Touched her bra and/or near her breast with your hand/finger(s);

The panel noted the following key evidence for this allegation:

Evidence of Pupil D

Pupil D did not give oral evidence at this hearing. In a previous case management hearing in these TRA proceedings, the panel granted an application by the TRA to adduce the account of Pupil D as hearsay evidence.

The account of Pupil D was recorded on the following occasions:

In a handwritten statement by Pupil D which included a date and time of 11 June 2021 at 15:34, this account of Pupil D stated that:

“I was sat by the computer doing my work in [REDACTED]. Sir (Mr Kenyon) started coming round the room to check on our work. He stopped by me and put his hand under my armpit. I could feel pressure on my bra, and his fingertips were against the padding of my bra, which was against my breast. [Pupil E] turned to me after he walked away to check I was ok. I immediately felt uncomfortable, nervous and I was shaking. [Pupil E] noticed that I wasn’t alright...”

In the police investigation, Pupil D gave a video interview (which would also stand as her evidence-in-chief in the Crown Court proceedings). In this account, Pupil D further detailed that it was on her left side that the touching by the breast area occurred. She also set out that she told and showed Pupil E where she was touched.

During cross-examination in the Crown Court trial, Pupil D accepted that Mr Kenyon would on occasions place his left hand on pupils’ chairs to help balance himself when assisting them. Pupil D also explained that she told Pupil E about what happened right after it had occurred and again during the lunch break. It was put to Pupil D that whatever might have happened when Mr Kenyon was trying to assist her during the class, she was mistaken in thinking he placed his hand where she described. Pupil D stated that she did not think she was wrong.

Evidence of Pupil E

Pupil E’s evidence before the panel was that she was a pupil at the School throughout her secondary education from 2018 to 2023. Pupil E knew Mr Kenyon as he taught her [REDACTED].

Pupil E stated that she saw Mr Kenyon put his hand on the side of Pupil D’s left breast during a [REDACTED] lesson. Pupil E described herself as being sat next to Pupil D as she was working with her and saw that:

“Stephen Kenyon said “well done” to Pupil D, and then I saw his hand on the side of her boob. I believe his hand was on her boob for a second or so, and then he retracted his hand as he walked away. Neither I or Pupil D said anything in response to Stephen Kenyon.”

Pupil E described Pupil D as looking very uncomfortable following this event and that during lunch Pupil D was crying and was asking her for a hug.

Pupil E said she was asked to give a police statement. A copy of her police statement dated 12 August 2021 was also before the panel, which provided a materially similar account to her TRA evidence.

Pupil E also confirmed that she gave evidence in the Crown Court trial. A transcript of her evidence was before the panel. Her account was again materially the same as set out above. In cross-examination, Pupil E confirmed that Pupil D did not directly say to her what had happened during the lesson with Mr Kenyon.

Evidence of Witness A

When Witness A informed Mr Kenyon of the allegation by Pupil D, she stated that in her first investigating meeting with him, Mr Kenyon said that the allegations were a complete fabrication and that it never happened and that there was not even any accidental touching during the lesson. Witness A stated that following the meeting, Mr Kenyon sent an email to her, in which he wrote:

“I wish to state that I completely deny any inappropriate conduct on my part in my dealings with the female student concerned, at any point, in any of the lessons that I have taught her. Specifically, I categorically deny that I touched her breast in a lesson in my classroom on 11th June 2021. This event did not happen, is completely fabricated and not true.”

Other relevant documentary evidence

In the notes of the School’s disciplinary hearing, which took place on 8 March 2023 (after the conclusion of the criminal proceedings), Mr Kenyon again denied any contact with Pupil D and stated that Pupil D and Pupil E were found to be discredited witnesses in the Crown Court trial.

During the Crown Court trial, Mr Kenyon gave evidence. The transcript records Mr Kenyon’s stated approach to assisting pupils in his [REDACTED] classes as:

“I certainly don’t lean over a student. What I, I’ve always done in my, my whole, my whole working life is if I can, I pull up a chair next to a student. If that’s not possible, we were always taught to crouch down next to a student. You reduce your height to that of the student, so what I do is I crouch down next to them... my right hand always goes on the seat back to my right, which just stabilises me. I crouch down. I’ve got paperwork in my left hand, that always goes on the floor behind me...

After I’ve finished the crouching down process, my left hand will go onto the chair leg to my left to support myself, then this [right] hand then becomes free... this is the hand that I, I use to type on the keyboard or to control the mouse on the screen.”

Mr Kenyon went on to explain he used this exact ‘crouching process’ when assisting Pupil D during the lesson on 11 June and that he was not aware of making any contact with Pupil D.

Also before the panel were notes of a meeting that took place between Mr Kenyon and Individual A on 24 May 2021, following a pupil (not Pupil B, Pupil D or Pupil E) raising a concern about Mr Kenyon's proximity to them during lessons and his use of language. Individual A's note of the meeting read:

"We talked at length about personal space (Steve is often over the shoulder to look at the coding on screen). I've advised that he uses LAN school to view the code from his desk or ask the student to move to the side whilst he looks. We also talked about how personal space and Covid space link in, so in doing the above it will be beneficial for both aspects..."

Panel's finding and reasons

The panel noted there appeared to be no conflict in the evidence that Mr Kenyon was in close proximity to Pupil D and Pupil E, providing assistance during the lesson on 11 June 2021. The panel also noted that Pupil D's account had been secured in a written statement just a number of hours after the event had occurred. The panel considered that Pupil D's account was broadly corroborated by another direct witness – Pupil E. Whilst the panel did note some inconsistencies between their accounts, such as whether Pupil D had told Pupil E what had happened during the lesson, it did not consider these differences as so significant as to fundamentally undermine the credibility of the witnesses. The panel did not agree with Mr Kenyon's assessment that the witnesses had been completely discredited in the criminal proceedings. The panel noted that Mr Kenyon's union representative highlighted in his disciplinary proceedings that the judge had made adverse comments about the witnesses. The judge's summing up was not before this panel. In any event, it was the duty of this panel to form its own conclusion on the evidence before it. The panel also noted their accounts had remained broadly consistent throughout the various investigations that have taken place.

The panel noted a marked difference in the account advanced by Mr Kenyon in the Crown Court trial compared to that which he initially gave in the School's investigation. In particular, his explanation about the use of a 'crouching process' was never raised in the School's investigation, but was a significant explanation by him in his Crown Court account. Related to this point was the evidence from the 24 May 2021 meeting in which a senior colleague discussed with Mr Kenyon as often being 'over the shoulder of pupils' when looking at their screen, which supported Pupil D and Pupil E's accounts that he was lent over Pupil D. The panel noted the Pupil D and Pupil E did not appear to overstate their evidence and both made reasonable concessions whilst giving evidence. There was an absence of any evidence to materially undermine their accounts. The panel considered this supported the accounts of Pupil D and Pupil E in that it was more likely than not that Mr Kenyon was not crouched down, but was stood behind and leant over Pupil D during this event.

The panel took into account that a number of pupils raised in their witness statements (and directly to the School's Senior Leadership Team) about Mr Kenyon's overly tactile pattern of behaviour. This appeared somewhat corroborated by [REDACTED]'s conversation with Mr Kenyon on 24 May 2021.

The panel further considered that whilst being in this upright position, it was unlikely a person would make inadvertent contact with someone's armpit / side of breast whilst standing behind them. That was particularly so where that person did not say anything about it, such as apologising for the inadvertent contact. Accordingly, the panel was satisfied that it was more likely than not that Mr Kenyon's contact with Pupil D was purposeful.

For the same rationale as set out in Allegation 1, the panel was satisfied that such touching of a pupil was not necessary and was therefore inappropriate.

The panel therefore found Allegation 2 proved.

3. Your conduct at paragraphs 1 and/or 2 above was of a sexual nature.

In regard to Allegation 1, the panel took into account that the touching of a person's hands and shoulders were not inherently considered as sexual areas of the body. As the panel found that other touching was only 'near to the breast', as in at the top of the chest by the clavicle, the panel also considered this was difficult to define as an inherently sexual area of the body. Whilst plainly inappropriate contact, the panel was not satisfied there was evidence in relation to Mr Kenyon's purposes in touching Pupil B to suggest it was more likely than not that such contact was of a sexual nature.

In regard to Allegation 2, the panel considered that the breast area of a female was generally considered as a sexual area of the body. Having found the contact with Pupil D was purposeful, the panel was not able to identify any other reason why a person would place their hand on another person's body, in such proximity to their breast, if it were not for a sexual purpose. This was particularly so in light of Mr Kenyon being cautioned about his proximity to pupils just over a week before this incident. On that basis, the panel was satisfied that it was more likely than not, that Mr Kenyon's touching of Pupil D was of a sexual nature.

The panel therefore found Allegation 3 proved in so far as it applied to Allegation 2.

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

The panel also considered whether Mr Kenyon’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 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 of “sexual activity” was relevant.

The panel considered that sexual misconduct towards a pupil was inherently serious and the conduct towards Pupil B, whilst not sexual, was still sufficiently serious to cross the high threshold – it was not behaviour that was otherwise excusable or of a trivial nature.

Taking account of these factors, the panel was satisfied that the conduct of Mr Kenyon 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 Kenyon was guilty of unacceptable professional conduct.

In relation to whether Mr Kenyon’s actions 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 also considered whether Mr Kenyon’s conduct displayed behaviours associated with any of the offences listed on pages 10 and 11 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 conduct that may bring the

profession into disrepute. The panel found that the offence of “sexual activity” was relevant.

The panel considered that parents would expect regulatory action to be taken in such circumstances to protect their children against inappropriate touching by teachers. 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 of the profession.

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

Panel’s recommendation to the Secretary of State

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

In considering whether to recommend to the Secretary of State that a prohibition order 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 Kenyon, which involved inappropriate physical contact with pupils, 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 Kenyon 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 Kenyon 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 Kenyon 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 valuable contribution to the profession.

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Kenyon.

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 Kenyon. 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:

- (a very) serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- sexual misconduct, e.g. involving actions that were sexually motivated or of a sexual nature...

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. The panel considered the factors set out at page 18 of the advice and considered none of those factors applied in this case.

As Mr Kenyon had not engaged with these proceedings, he had not advanced any evidence of mitigation on his behalf for the panel to take into account. The panel noted that in the evidence before it was a character reference from Mr Kenyon's previous line manager at the School which was used in the Crown Court proceedings. This reference set out that:

"During department meetings, he would take an active role and was always willing to contribute to the running of the department. As his line manager, I would formally observe Mr Stephen Kenyon teaching a couple of times each year within his classroom. His lessons were always well planned and delivered to a high standard."

The panel recognised that a denial of the allegations should not automatically result in a finding of a lack of insight. In considering the evidence before it, the panel concluded that Mr Kenyon appeared to lack a developed insight into the concerns present. Mr Kenyon had some recognition as to the seriousness of the allegations. The panel recognised being the subject of serious allegations can be difficult for a person to process and manage. However, there was no evidence that Mr Kenyon materially sought to explore or reflect on why pupils might be raising concerns about his contact with them and how he might adapt his practice accordingly. This lack of reflection occurred both at the time the allegations were raised and dealt with, and later in these proceedings, despite being given the opportunity to do so. Instead Mr Kenyon's focus appeared solely to be on the repercussions to himself. During the School's investigation, he referred to the pupils involved as 'dangerous' and during a formal disciplinary meeting, stopped himself completing a sentence which started, 'the lying little...', when referring to these pupils.

Of particular concern to the panel was the risk of repetition present in this case. The panel took into account the significant impact the various investigations and proceedings have had on Mr Kenyon and to some degree would act as a deterrent to acting in a similar way in the future. However, the panel noted that Allegation 2 arose despite Mr Kenyon being advised on his close proximity to pupils in the two weeks just before by a member of the senior leadership team. Combined with the lack of developed insight, the panel considered that the risk of similar misconduct reoccurring was still present and was at a higher level where restrictive regulatory action was necessary to protect pupils.

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 Kenyon of prohibition and the public interest in retaining him in the profession.

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 Kenyon. The risk of repetition being at the higher level 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 certain types of case 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.

Whilst on the spectrum of seriousness of sexual misconduct that appears before these panels, this case might be considered as not being at the top end, the panel noted the Advice does not require an assessment of the seriousness in regard to sexual misconduct involving children. Accordingly the panel considered there were no grounds present, particularly in light of the lack of insight on the part of Mr Kenyon, to depart from the guidance in the Advice.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

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

In particular, the panel has found that Mr Kenyon 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.

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

The findings of misconduct are particularly serious as they include a finding of touching pupils in an appropriate manner. In the case of one pupil this conduct was found to be of a sexual nature.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Kenyon, 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, "In the light of the panel's findings against Mr Kenyon, which involved inappropriate physical contact with pupils, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse. The panel has said, "In considering the evidence before it, the panel concluded that Mr Kenyon appeared to lack a developed insight into the concerns present." The panel was also concerned about the risk of repetition and noted that "...Allegation 2 arose despite Mr Kenyon being advised on his close proximity to pupils in the two weeks just before by a member of the senior leadership team. Combined with the lack of developed insight, the panel considered that the risk of similar misconduct reoccurring was still present and was at a higher level where restrictive regulatory action was necessary to protect pupils." In my judgement, the lack of full insight 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 has observed that "...parents would expect regulatory action to be taken in such circumstances to protect their children against inappropriate touching by teachers. 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 of the profession." I am particularly mindful of the finding that the inappropriate touching of one of the pupils was of a sexual nature 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 Kenyon. The panel has noted that Mr Kenyon did not engage with its proceedings and did not provide it with any evidence of mitigation. However, the panel noted a character reference from Mr Kenyon's previous line manager at the school, which was used in the Crown Court proceedings. The reference states that:

"During department meetings, he would take an active role and was always willing to contribute to the running of the department. As his line manager, I would formally observe Mr Stephen Kenyon teaching a couple of times each year within his classroom. His lessons were always well planned and delivered to a high standard."

A prohibition order would prevent Mr Kenyon 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 findings that Mr Kenyon lacked a developed insight into his conduct and that the risk of repetition of this conduct was at the higher level.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Kenyon 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, that is not backed up by full 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.

The panel has noted that the Advice says that the public interest will have a greater relevance and weigh in favour of not offering a review period in cases where there is any sexual misconduct involving a child. The panel has commented that:

“Whilst on the spectrum of seriousness of sexual misconduct that appears before these panels, this case might be considered as not being at the top end, the panel noted the Advice does not require an assessment of the seriousness in regard to sexual misconduct involving children. Accordingly the panel considered there were no grounds present, particularly in light of the lack of insight on the part of Mr Kenyon, to depart from the guidance in the Advice.”

I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the serious nature of the conduct found proven in this case, the lack of full insight and the risk of repetition.

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 Stephen Kenyon 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 Kenyon 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 Stephen Kenyon 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 be 'S. Kenyon', written in a cursive style.

Decision maker: David Oatley

Date: 8 November 2024

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