



Teaching  
Regulation  
Agency

# **Mr Malcolm Lowe: 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 Malcolm Lowe

**TRA reference:** 18726

**Date of determination:** 25 October 2024

**Former employer:** St Mary's Church of England Primary School, Birmingham

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 21 to 24 October 2024 at Cheylesmore House, 5 Quinton Road, Coventry, CV1 2WT, to consider the case of Mr Malcolm Lowe.

The panel members were Mrs Melissa West (teacher panellist – in the chair), Mr Stephen Chappell (lay panellist) and Mrs Beverley Montgomery (lay panellist).

The legal adviser to the panel was Ms Rebecca Hughes of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Ian Perkins of Browne Jacobson LLP solicitors.

Mr Lowe was present and was represented by Ms Briony Molyneux of Crucible Law.

The hearing took place in public and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 9 October 2024.

It was alleged that Mr Lowe was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed at St Mary's Church of England Primary School ('the School'):

1. In or around 2001 you failed to disclose receipt of one or more personal letters which you received from Pupil B in which she;
  - a. Provided her personal contact information and home address;
  - b. Stated "I love you a bit"
  - c. Stated "I love you"
  - d. Included a picture of a love heart;
  - e. Stated "I really love you. I'm always thinking about you. I always look at your photo I have got. I will give you my photo..."
2. In or around 2001 you displayed inappropriate behaviour towards Pupil B by;
  - a. Meeting alone with Pupil B in a classroom cupboard / storage room;
  - b. Hugging Pupil B;
  - c. Kissing Pupil B on the lips;
  - d. Encouraging or allowing Pupil B to sit on your lap and/or rock her body against you;
  - e. Putting your hand up Pupil B's top and touching her back;
  - f. Engaging in telephone conversations with Pupil B outside of school hours;
  - g. Discussing your personal life with her;
  - h. Gifting her a teddy holding a love heart.
3. You instructed Pupil B to keep your conduct as may be found proven at Allegation 2 above secret.
4. Your conduct as may be found proven at allegation 2 was sexually motivated.
5. [Allegation discontinued].

6. Your conduct as may be proven at Allegation 3 was dishonest and/or lacked integrity.

Mr Lowe denied allegations 1(a), 1(b), 1(c), 1(d), 1(e), 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 3, 4 and 6, as set out in his written statement, which he signed on the 8 October 2024.

## **Preliminary applications**

### **Day 1: 21 October 2024**

#### Application to discontinue allegation 5

The presenting officer made an application to discontinue allegation 5, which read as follows:

[REDACTED]

The presenting officer made this application because, following a review of the evidence, the presenting officer did not consider it appropriate to continue with allegation 5, as there was insufficient evidence.

Mr Lowe's representative did not object to this application.

The panel was advised that it has the power to amend the allegations in accordance with paragraph 4.56 of the teacher misconduct: Disciplinary procedures for the teaching profession April 2018 the ('2018 Procedures').

The panel was satisfied that it was appropriate to discontinue allegation 5 and accordingly allegation 5 was discontinued and disregarded.

#### Application to amend allegation 6

The presenting officer made a further application to amend the wording of allegation 6 to remove reference to allegation 5.

*"6. Your conduct as may be proven at Allegations 3 and 5 was dishonest and/or lacked integrity."*

This application to amend allegation 6 was made to clarify the allegations, on the basis that if allegation 5 was discontinued, there would be no need to refer to it in allegation 6.

Mr Lowe's representative did not object to this application.

The panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the 2018 Procedures.

The panel was satisfied that the proposed amendment to allegation 6 did not change the nature, scope, or seriousness of the allegations and that the amendments did not cause unfairness or prejudice.

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 this application and considered the amended allegation, which is set out above.

#### The presenting officer's application to admit additional documents

The panel considered a preliminary application from the presenting officer for the admission of additional documents contained within a disputed document bundle.

The presenting officer's documents were:

- MG11 Witness Statement of [REDACTED] from Exhibit ASP7, which was undated.
- Response from Mr Lowe re Pupil B from Notes of Disciplinary Hearing in December 2002, which was undated.
- Information reported to [REDACTED] by staff members regarding Pupil B and Mr Lowe, dated 19 September 2002.

The panel received submissions from the teacher's representative and the presenting officer. The panel was not provided with copies of and, therefore, did not read the documents prior to making a decision as to whether they should be admitted. The panel therefore made its decision based on the submissions of the presenting officer and Mr Lowe's representative.

Mr Lowe's representative objected to the inclusion of the additional documents because the documents contained hearsay evidence.

As part of its consideration, the panel's attention was drawn to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWCA 1565*, where the court confirmed that the admission of the statement of an absent witness should not be regarded as a routine matter, and that the panel should consider the issue of fairness before admitting the evidence.

The panel was also referred to the case of *El Karout v Nursing and Midwifery Council [2019] EWHC 28*.

The panel carefully considered the submissions to determine whether it would be fair to admit the evidence.

The presenting officer submitted that the disputed documents bundle had been served in accordance with the requirements of paragraph 4.20 of the 2018 Procedures but had been removed from the bundle for the hearing as Mr Lowe disputed their inclusion.

The panel considered each document in turn:

1. MG11 Witness Statement of [REDACTED] from Exhibit ASP7

The presenting officer submitted this was a contemporaneous account of Pupil B's evidence and was relevant and, therefore, should be admitted.

Mr Lowe's representative submitted that the statement had not been dated and contained hearsay evidence; it was a statement from Pupil B's [REDACTED], following her speaking to Pupil B and then relaying this to the police. Therefore, as the statement contained multiple levels of hearsay evidence and it would be difficult to test, it should not be admitted. Mr Lowe's representative also raised the fact that it was a heavily redacted document, and therefore, the panel was unable to ascertain how quickly and when in time it had been reported, how the officer had recorded the conversation, and if it had been verbatim.

The panel considered the submissions that this was an MG11 witness statement produced by a serving police officer, in the course of their duties and, therefore, this gave weight to this document.

The panel considered the additional document to be relevant.

The panel noted that this witness evidence was not the sole and decisive evidence in relation to the allegations and that there were other documents to which the panel could refer.

Further, Pupil B was attending to give evidence, and, therefore, the panel felt it would be able to test the reliability of the statement with Pupil B. The panel concluded that the balance of fairness was not against admitting the statement as hearsay evidence. Accordingly, the document was admitted and considered in the panel's deliberations.

2. Response from Mr Lowe re Pupil B from Notes of Disciplinary Hearing in December 2002

The presenting officer submitted that this was a contemporaneous document from the School disciplinary hearing in December 2002. The presenting offer stated that allegation 1 was put to Mr Lowe at the disciplinary hearing and he provided a response, which was therefore relevant to the proceedings and should be admitted.

Mr Lowe's representative objected to the admission of the first two sentences of the document, arguing that they pertained to a different allegation which was not under consideration at this hearing. He submitted that including these sentences would prejudice Mr Lowe.

The presenting officer did not object to the first two sentences of the document being redacted.

The panel concluded that the additional document was relevant, except for the first two sentences, which pertained to a different allegation. Consequently, the panel instructed that the document be admitted after further redaction to remove references to the other allegation. The presenting officer arranged for the redaction of the document and then provided a redacted version which was admitted as evidence.

3. Information reported to [REDACTED] by staff members regarding Pupil B and Mr Lowe, dated 19 September 2002.

The presenting officer submitted that the document was a note of [REDACTED] conversation with two staff members regarding Mr Lowe and Pupil B and was, therefore, directly relevant to allegation 2. The presenting officer submitted that it provided evidence relating to the issue of pupils or other people knowing Pupil B and Mr Lowe were in the classroom alone and corroborated the evidence provided by Pupil B. The presenting officer acknowledged that this evidence may be considered hearsay, and the panel could determine the weight to be given to this document but should admit this as it was relevant and in the public interest.

Mr Lowe's representative submitted that the document contained multiple levels of hearsay evidence, that this evidence could not be tested, and that, therefore, it should not be admitted.

The panel considered the additional document was relevant, as it related to part of allegation 2.

The panel noted that the evidence was not the sole and decisive evidence in relation to allegation 2 and that there were other documents to which the panel could have regard, including [REDACTED] witness statement and oral evidence to be given during the hearing. Furthermore, the evidence was not such that the panel felt it would be unable to test its reliability, as [REDACTED] was giving evidence in the hearing and, therefore, the panel could test this document's reliability directly with her.

The panel concluded that the balance of fairness was not against admitting the document as hearsay evidence. Accordingly, the document was admitted and considered in the panel's deliberations.

Mr Lowe's application to admit additional documents



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

Mr Lowe's documents were:

- A hand-drawn diagram of the classroom.
- A witness statement from [REDACTED] dated 8 October 2024.
- An email from [REDACTED] to Mr Lowe containing a character reference, sent on 16 October 2024.

The documents subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the 2018 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the 2018 Procedures.

The panel heard representations from the presenting officer and the teacher's representative in respect of the application.

The presenting officer did not object to this application.

The panel concluded that the documents relevant, including in particular the hand-drawn diagram of the classroom, as this related to the classroom in which allegation 2 allegedly took place and was Mr Lowe's classroom at the relevant time.

Accordingly, the documents were added to the bundle.

The panel noted that since the date of the referral to the TRA in this case, new 'Teacher misconduct: Disciplinary procedures for the teaching profession' were published in May 2020 (the "May 2020 Procedures"). The panel understands that the earlier provisions contained within the April 2018 Procedure apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel has received no representation during this hearing that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

## **Day 2: 22 October 2024**

### An application to admit additional documents

On the second day of the hearing, the presenting officer made an application for the admission of an additional document.

The presenting officer's document was a supplementary witness statement from Pupil B, which had been prepared following Pupil B giving oral evidence on the first day of the hearing.

The document subject to the application had not been served in accordance with the requirements of paragraph 4.20 of the 2018 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the 2018 Procedures.

Mr Lowe's representative did not object to this application.

After hearing submissions from the presenting officer and the teacher's representative and receiving legal advice, the panel made the following decision.

The panel noted that the supplementary witness statement of Pupil B primarily aimed to correct part of her oral evidence regarding the location of the teddy bear that Mr Lowe allegedly gave to Pupil B. The panel deemed the additional document relevant, as it pertained to the teddy bear mentioned in allegation 2(h). The panel considered that the witness statement sought to clarify evidence provided by Pupil B during her oral testimony on the first day of the hearing. Consequently, it did not affect the weight of any evidence given and would not prejudice the teacher, as it related to the current location of the teddy bear rather than details from the time of the allegation or the act of receiving the teddy bear.

The panel agreed to admit this document as evidence.

## **Summary of evidence**

### **Documents**

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

- Section 1: Notice of proceedings and response – pages 6 to 10
- Section 2: Anonymised pupil list – page 12
- Section 3: TRA witness statements – pages 14 to 49
- Section 4: TRA documents – pages 51 to 149
- Section 5: Teacher's response – pages 151 to 184.

In addition, the panel agreed to accept the following:

- A hand-drawn diagram of the classroom – page 185

- A witness statement from [REDACTED] dated 8 October 2024 – page 186
- An email from [REDACTED] to Mr Lowe containing his character reference sent on 16 October 2024 – page 187
- MG11 Witness Statement of [REDACTED] from Exhibit ASP7 – pages 188 to 189
- Response from Mr Lowe re Pupil B from Notes of Disciplinary Hearing in December 2022 (further redacted) – page 190
- Information reported to [REDACTED] by staff members re Pupil B and Mr Lowe dated 19 September 2002 – page 191
- A supplementary witness statement from Pupil B – page 192.

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

## **Witnesses**

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

- Pupil B

[REDACTED] The panel also heard oral evidence from Mr Lowe.

## **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 Lowe commenced employment at St Mary's Church of England Primary School ('the School') in September 1997.

On 28 December 2001, [REDACTED]. He was suspended from the School later that day.

[REDACTED]

On 31 May 2002, letters and photos from Pupil B were found in a classroom of the School by children who took them home to their parents. One of the parents brought some of the items back into the School.

[REDACTED].

## 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. In or around 2001 you failed to disclose receipt of one or more personal letters which you received from Pupil B in which she;**
  - a. Provided her personal contact information and home address;**
  - b. Stated “I love you a bit”**
  - c. Stated “I love you”**
  - d. Included a picture of a love heart;**
  - e. Stated “I really love you. I’m always thinking about you. I always look at your photo I have got. I will give you my photo...”**

The panel considered the oral evidence and written statement of Pupil B. Pupil B stated that she said to her friends that she was going to write Mr Lowe a note and not write who it was from and slide it under the door when he was not in his classroom hut. Pupil B stated that she used to slip notes under Mr Lowe’s classroom door regularly and he would know that they were from her. In particular she said she *“would slide a note under the door so that he would see it when he got back”*.

The panel considered the copies of the letters written by Pupil B, provided within the bundle. The panel noted the following comments within the letters:

- *“I really love you. I’m always thinking about you, I always look at your photo I have got. I will give you my photo...”*
- *“I like you, but I only like you just a bit”*
- *“I love you”*
- *“I love you a bit”* (down the side of the page)

The panel noted that Pupil B had drawn love hearts on the letters and that one of the letters included her personal contact information and home address. The panel also noted that with the letters there were two photos of Pupil B, one at School and one at home.

The panel considered that Pupil B was a pupil at the School between 1992 and 2000 and, therefore, there was no evidence that she had played any part in the discovery of

the personal letters which were allegedly found enclosed within a book by other pupils or in the chain of custody of them reaching [REDACTED]

The panel noted the passage of time between Pupil B having left the School and the personal letters having been found.

The panel noted that there were minor inconsistencies in relation to Pupil B's evidence, including regarding the number of notes. However, the panel took into account the fact that there would likely be inconsistencies in some of the evidence given by Pupil B, particularly in relation to the later statements and oral evidence as the alleged misconduct took place over twenty years ago. The panel also noted that Pupil B, in oral evidence, stated that it was a "possibility" that she had sent the notes to Mr Lowe a few times a week.

The panel observed that Pupil B had been consistent in her recollection of the most important aspects of the specific incidents and in maintaining that she had slipped the notes under Mr Lowe's door and that he had received the notes.

The panel observed that Pupil B's credibility had been tested during her oral evidence and that she still maintained that she had a crush on Mr Lowe, which adds plausibility to the fact that she wrote these notes and that she had placed them under this door.

In her oral evidence, Pupil B said that she would hand Mr Lowe her notes.

The panel considered the oral evidence of Pupil B that she would often change her handwriting during this time and, therefore, this explained the difference in writing between the two notes provided to the panel in the bundle of documents.

The panel noted that Pupil B had come forward to give evidence and found her evidence to be credible in respect of this allegation.

The panel considered the oral evidence and written statement of [REDACTED], headteacher at the School, who stated that she was notified of the matters concerning Pupil B's letters and photos by the School's [REDACTED]. She said that following an after-school disco, a parent came to the School and asked to speak to her. [REDACTED] stated that she was off the school site as it was after 6:30pm, but the parent explained to the caretaker that the children were tidying up the classroom during the day because of a new carpet being fitted in the classroom, and the children had moved some cupboards and the teacher's desk and some letters and photographs of Pupil B fell out of a book. [REDACTED] submitted that the letters were addressed to Mr Lowe, and the book appeared to have belonged to Mr Lowe as his name was written inside it.

[REDACTED] stated that the children who found the notes and photos, took them home and did not tell any of the teachers. She stated that the parent of one child discovered this and came by the School the same evening to hand the objects in. [REDACTED]

stated that she contacted the local authority safeguarding lead and social services and was advised to inform the police.

[REDACTED] stated that during the School's disciplinary hearing, Mr Lowe denied that he had seen the picture of Pupil B or the letters and stated that it was not his book. She stated that she recalled that Mr Lowe also had a calligraphy expert who stated that Mr Lowe's name inside the book was written by someone else and not Mr Lowe.

The panel noted that during her oral evidence, [REDACTED] confirmed that the pupils who had found the book containing the personal letters were good students and that Pupil B was a sensible pupil.

The panel noted that [REDACTED] had not found the personal letters herself.

The panel also considered the character references given by [REDACTED] for Lowe. In particular, that [REDACTED] had provided a character reference for Mr Lowe's criminal trial and a reference supporting his application to become deputy headteacher at the School.

The panel considered the written statement and oral evidence of Mr Lowe, who denied this allegation. He stated that there was no evidence that he ever received any of the communications in question. He stated that he only became aware of their existence when they were produced as evidence against him in the School disciplinary hearing. Mr Lowe stated that the communications had apparently been discovered by pupils helping to clear the classroom, and that there was conflicting evidence about what book they were discovered in. He stated that the room had also been occupied by another teacher for several months and that at an earlier point in his 9-month suspension (as a result of the unrelated criminal matter), his desk had been completely cleared by his classroom assistant.

Mr Lowe stated that the book was found five months after his suspension and had his name on it, which had clearly been forged. He said that he had a graphologist look at this evidence and "*disprove it as fake*".

Mr Lowe stated that he had only ever seen photocopies of the letters and that the second letter was addressed to "*dear sir*", which could have meant it was for any of the several male teachers/staff members.

In oral evidence, Mr Lowe confirmed that he would have been using the book, which was A Christmas Carol by Charles Dickens, in the run-up to Christmas. He confirmed in oral evidence that he had his own copy of this book, but his would be annotated. However, the panel noted that Mr Lowe had not produced his copy of the book previously and that he said he was no longer able to provide it as it had "*disintegrated*" over time.

The panel considered Mr Lowe's oral evidence that the classroom hut in which he taught Pupil B was not the same as the classroom where the letters and photos had been found, as he had moved classrooms.

The panel noted that Ms Alex Wigley, classroom teaching assistant at the School, in her written statement, had stated that she was tasked by the headteacher to collect all of Mr Lowe's personal belongings from the classroom. In this written statement she stated that she *"did a thorough sweep of the classroom, boxing up all of his belongings this included all of his many personally owned books that he used and allowed the pupils to read. I moved his desk as there were some things, papers etc, which had slipped down at the back and they were difficult to reach without moving the desk."*

The panel noted that [REDACTED] was not in attendance at the hearing and was not, therefore, able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence and placed only some weight on her evidence as she had not attended the hearing to give oral evidence.

The panel acknowledged that [REDACTED] might have believed she had gathered all of Mr Lowe's belongings. However, due to the number of books and amount of paperwork in a classroom, some of which belonged to the School, the panel concluded that while [REDACTED] could have thought she had collected all personal items, she could not be certain. Therefore, the panel found it plausible that a book containing the letters could have been missed.

The panel noted that they had been provided with a comparison report from [REDACTED], dated 12 December 2002, which confirmed that the *"signature"* written on the first page of *"A Christmas Carol"* was *"not written"* by Mr Lowe.

The panel considered the legal advice from the legal adviser regarding expert evidence.

The panel found it could not assign much weight to this evidence, as it had not been provided with the brief provided to [REDACTED] and had not received copies of the two handwriting samples she compared.

Despite this, the panel noted that even if it was not Mr Lowe's handwriting in the book this did not rule out the possibility that he received the personal letters and stored them in this book.

The panel considered Mr Lowe's oral evidence and, in particular, his consistent denial of the allegation.

The panel considered Pupil B's evidence regarding this allegation that she was consistent and credible regarding that she had authored the notes and delivered them to Mr Lowe.

The panel applied the balance of probabilities test to the evidence before it to determine whether it was satisfied that the incident giving rise to the allegation was more likely than not to have occurred.

The panel noted minor inconsistencies regarding the precise location and name of the book, but it concluded that these discrepancies were not particularly significant.

The panel reviewed the teacher's representative's arguments about the custody of the book, noting that others had access to the classroom while Mr. Lowe was suspended. It found it unlikely that someone else would have created a note from Pupil B to Mr Lowe, as Pupil B confirmed the notes included her name and personal information and were written by her. The panel noted that the letters appeared to be written by a child, consistent with Pupil B's account.

On the balance of probabilities, the panel found it more likely that Pupil B wrote the notes, placed them under Mr Lowe's door, and that Mr Lowe kept them. It deemed it unlikely a third party would have kept the letters for nearly a year to use against Mr Lowe.

Given Mr Lowe's suspension in December 2001, he would not have had the opportunity to retrieve the letters and photos from his classroom.

In his oral evidence, Mr Lowe confirmed that he moved to the upper classroom hut around 1999. The panel noted that Pupil B delivered the letters to Mr Lowe's classroom at the time and left the School in 2000. The letters and photos were found in Mr Lowe's new classroom, and therefore, the panel concluded that Mr Lowe must have kept and moved them as it was, in the panel's view, inherently unlikely that anyone else would have moved them.

Mr Lowe accepted he was using the book *A Christmas Carol* at the time of his suspension in December 2001.

The panel weighed up the evidence on both sides and considered that on the balance of probabilities, Mr Lowe had received the personal letters and photos contained within the bundle of documents.

Having found that Mr Lowe had received the personal letters and photos, the panel concluded that Mr Lowe had failed to disclose them.

The panel considered the specific wording of the allegation that "*In or around 2001 [Mr Lowe] failed to disclose receipt of one or more personal letters received from Pupil B...*". It noted that although Pupil B left the School in 2000 and, therefore, Mr Lowe had not received the letters in 2000, he had continually failed to disclose them and, consequently, he had failed to disclose these in 2001. Notwithstanding this, the panel considered that a strict interpretation of "*around 2001*" would also have included Mr Lowe failing to report receiving the letters in 2000.



The panel found allegation 1 proven.

## **2. In or around 2001 you displayed inappropriate behaviour towards Pupil B by;**

### **h. Gifting her a teddy holding a love heart.**

Pupil B stated that she was upset about leaving year 6 for many reasons but one included that she would not be able to see Mr Lowe again. She stated that she gave Mr Lowe a picture of her and a note to remember her by, and he gave her a little teddy holding a heart covered in his aftershave to remember him by.

The panel observed that Pupil B had been consistent in her evidence regarding the teddy and its receipt.

Pupil B had explained that she still had this teddy and could produce this, or an image of the teddy, upon request. The panel observed that Pupil B's credibility had been tested during her oral evidence, but she maintained that Mr Lowe had given her a small teddy holding a love heart, which she had kept.

The panel concluded that Pupil B had confirmed that she had a crush on Mr Lowe at the time, making it plausible that she kept the teddy as a keepsake.

The panel reviewed Pupil B's supplementary witness statement, confirming she still had the teddy, which was in a cupboard, not the attic.

The panel noted that in his written statement, Mr Lowe stated that he has never given a present of any kind unless it was part of an award ceremony / assembly. He stated at such gatherings these gifts would be given on behalf of the school.

The panel considered the MG11 witness statement of [REDACTED] which noted pupils teased Pupil B due to her "*mutual attraction*" with Mr Lowe, supporting Pupil B's evidence of favouritism and closeness. Although hearsay, this evidence aligned with Pupil B's account.

No contemporaneous documentary evidence was provided for allegation 2 (h), but Mr Lowe admitted in oral evidence and the School disciplinary hearing notes from December 2002 that Pupil B had a "*big crush*" on him.

The panel considered a note dated 19 September 2002 summarising a conversation between [REDACTED], and two dinner supervisors who did not want to be named or "embroiled" in the matter. [REDACTED] could not recall whether she had spoken to them together or separately. She also accepted that there was already a level of rumour and gossip in the School surrounding Mr Lowe at the time. Therefore, the panel placed little weight on this evidence and treated this with caution as this contained multiple hearsay. However, it did corroborate Pupil B's evidence that Pupil B and Mr Lowe would be alone

together in his classroom. The panel took this as further evidence of special treatment from Pupil B to Mr Lowe.

The panel felt that Mr Lowe downplayed Pupil B's crush on him and found Pupil B credible in her account of being favoured by Mr Lowe. Pupil B stated she was teased because of her special treatment, which others had noticed.

The panel found that on the balance of probabilities, Mr Lowe had given Pupil B a teddy holding a love heart, at around the time Pupil B was leaving the School, particularly given the context of Pupil B having a "crush" on Mr Lowe.

The panel went on to consider whether this displayed inappropriate behaviour towards Pupil B. The panel concluded that due to the particular circumstances, in that Mr Lowe provided Pupil B with a teddy holding a love heart, when he knew Pupil B a "big crush" on him, was inappropriate behaviour.

The panel considered the specific wording of the allegation that "*In or around 2001 [Mr Lowe] displayed inappropriate behaviour towards Pupil B by...Gifting her a teddy holding a love heart.*" It noted that Pupil B confirmed in her evidence that Mr Lowe provided the teddy in response to her letter to him to remember her and, therefore, this would have been provided to her around July 2000, when she left the School. The panel considered that a strict interpretation of "around 2001" would also have included 2000.

The panel found allegation 2 (h) proven.

The panel found the following particulars of the allegations against you not proved, for these reasons:

**2. In or around 2001 you displayed inappropriate behaviour towards Pupil B by;**

- a. Meeting alone with Pupil B in a classroom cupboard / storage room;**
- b. Hugging Pupil B;**
- c. Kissing Pupil B on the lips;**
- d. Encouraging or allowing Pupil B to sit on your lap and/or rock her body against you;**
- e. Putting your hand up Pupil B's top and touching her back;**
- f. Engaging in telephone conversations with Pupil B outside of school hours;**
- g. Discussing your personal life with her;**

Pupil B stated that she could not remember how it had all started but remembered that she used to go and help clean up the classrooms on her breaks. She stated that

sometimes her friends would come and help, but when they would leave, she would stay. Pupil B stated that she used to wait in the area outside Mr Lowe's class and he would check and say to her when the coast was clear.

Pupil B explained that she and Mr Lowe used to go into the cupboard in his classroom which was a small storage room filled with shelves and a draw. She stated that Mr Lowe used to close all of the blinds, and that there was a glass main door which led to the area where you could hang coats and another door on the right that Mr Lowe would make sure to close so that no one could see through the glass.

Pupil B stated that she was in year 5 and year 6 (ages 9 to 11) when Mr Lowe would hug and kiss her sometimes for a long period of time against the cupboard door. She stated that the kisses were on the lips, and they would be 'snogging'. Pupil B stated that she would often go straight to the cupboard and sit on a brown drawer kept in there and wait for Mr Lowe. She said that he would bring a chair into the cupboard and sit down, and she would sit on his lap facing him with her leg on each side.

During her oral evidence, when questioned, Pupil B stated that Mr Lowe would give her books to stand on, so he could kiss her for long periods against the door.

Pupil B stated that Mr Lowe would put his hand up her top and touch her back whilst she rocked back and forth against him.

Pupil B explained that Mr Lowe would ring her home telephone number on the days her [REDACTED] She stated that Mr Lowe would always call her when he was driving home, and they would talk about how he would see her the next day. They used to talk about Mr Lowe's [REDACTED] as they were having problems at the time.

The panel noted that there were inconsistencies in Pupil B's evidence. However, the panel took into consideration that there would likely be some inconsistencies in some of the evidence given by Pupil B, particularly in relation to the later statements and oral evidence, as the alleged misconduct took place over twenty years ago.

The panel observed that Pupil B had been consistent in her recollection of the most important aspects of the specific incidents and in maintaining that they had happened. In particular, she was consistent about the contact she had with Mr Lowe and where she alleged she had been touched.

The panel noted that Pupil B had come forward to give evidence and found no motive for her to lie, particularly as she had not had contact with Mr Lowe for over twenty years.

The panel observed that Pupil B's credibility had been tested during her oral evidence and that she still maintained that Mr Lowe had carried out the behaviours set out in allegation 2.

The panel considered the written statement of Mr Lowe, who stated that he has never engaged in any form of sexual behaviour or relationship with any pupil. He denied any inappropriate physical interactions with Pupil B, or any other pupil.

Mr Lowe stated that he has never called any pupil outside of school hours. He stated that there were always occasions where he, or other members of staff would need to call parents. Mr Lowe stated that this is always done using a School phone, either in the main office or suitable location.

Mr Lowe stated that he has never discussed his personal life with any pupils. He stated that there is always general chat in classrooms and assemblies regarding what staff do to help engage the pupils, but never on a one to one basis, and never anything specific and/or personal.

The panel acknowledged that there were no contemporaneous documents regarding allegations 2 (a) to 2 (g) as Mr Lowe had not been asked about these incidents at the time, as they had not been reported.

Therefore, the panel had to determine the credibility, reliability and cogency of the conflicting evidence given by Pupil B and Mr Lowe.

The panel took into account the fact that some of Mr Lowe's evidence would likely contain inconsistencies, as the alleged misconduct occurred some time ago.

The panel considered Mr Lowe's oral evidence and, in particular, his denial of all of the allegations.

The panel considered that Mr Lowe has been consistent in his denial of the allegations and in denying the fact that he kissed or touched Pupil B.

The panel noted that [REDACTED] in her written statement had stated that she and Mr Lowe "*we would usually eat our lunch together in the classroom as we prepared for the afternoon lessons*".

The panel noted that [REDACTED] was not in attendance at the hearing and was not, therefore, able to be cross-examined on her evidence. As such, the panel considered this evidence in line with the advice given on hearsay evidence and the appropriate weight to be attached to such evidence.

The panel noted that Pupil B, in her oral evidence, accepted that she had met with Mr Lowe at least twice a week, which would have been a significant number of lunch breaks, upwards of 100 times over a period of two years.

The panel noted that in her oral evidence, [REDACTED] explained that Mr Lowe would have had other duties during his lunchtime. The panel noted the witness statement of Ms Wigley who stated that Mr Lowe spent most lunch breaks with her. Therefore, the panel

found it implausible that Mr Lowe, or any teacher, could facilitate a situation where twice a week for two years, he would be alone with a pupil, and this would not have been reported as suspicious, or his absence from School duties would not have been noticed.

The panel also considered that Pupil B explained that she could not remember how it had progressed from her slipping notes under the door to sitting on Mr Lowe's lap rocking her body back and forth against him, whilst he put his hand up her top to touch her back and they were kissing with tongues. Pupil B confirmed that the same thing happened every time.

The panel noted that there did not appear to be any testing of the boundaries or progression of the physical contact, which seemed to stop upon Pupil B leaving the School.

The panel noted the fact that in her oral evidence, Pupil B referred to standing on books, which she had not previously mentioned in her written statement.

The panel noted that in oral evidence Pupil B stated that Mr Lowe called her up to four times a week for thirty to forty minutes. The panel found the alleged frequency and the length of the conversations to be improbable.

The panel considered Paragraph 4.17 of the April 2018 Procedures, which confirms that the burden of proof is on the presenting officer to prove the case.

The panel applied the balance of probabilities test to the evidence before it to determine whether it was satisfied that the incident giving rise to the allegation was more likely than not to have occurred. In particular, given the number of the alleged encounters, the improbability of such encounters not being discovered and the uniformity of the description of what occurred, the panel was unable to determine on the balance of probabilities that the alleged incidents were more likely than not to have taken place.

The panel found allegations 2 (a) to 2 (g) not proven.

### **3. You instructed Pupil B to keep your conduct as may be found proven at Allegation 2 above secret.**

Having found allegations 2(a) to (g) not proven, the panel considered this allegation in respect of allegation 2(h) only.

The panel considered the written statement and oral evidence of Mr Lowe, who denied this allegation.

The panel considered the oral evidence of Pupil B, who stated that she had been informed to keep the conduct at Allegation 2 (a) to (g) above secret and that Mr Lowe would get in trouble if people found out. However, Pupil B did not mention that Mr Lowe

informed her to keep receiving the teddy bear holding a love heart secret, which was relevant to allegation 2(h).

Further, the panel considered the evidence given by Pupil B that the teddy bear had been given in response to the photos and that he provided this when she was leaving the School. Therefore, the panel concluded that there was no evidence that Mr Lowe had informed Pupil B to keep the gifting of the teddy holding a love heart a secret.

The panel found allegation 3 not proven.

#### **4. Your conduct as may be found proven at allegation 2 was sexually motivated.**

Having found allegations 2(a) to (g) not proven, the panel considered this allegation in respect of allegation 2(h) only.

The panel considered the written statement of Mr Lowe, who denied this allegation. Mr Lowe denied any kind of physical or sexual relationship with any pupil and stated that he had no physical or sexual interest in children.

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

The panel noted that in *Basson* it was stated that “*A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship*”.

The panel further noted that in *General Medical Council v Haris [2021] EWCA Civ 763*, it was stated that, “*In the absence of a plausible innocent explanation for what he did, the facts spoke for themselves. A sexual motive was plainly more likely than not; I would go so far as to say that that inference was overwhelming.*”

The panel, therefore, considered whether there was a plausible innocent explanation for Mr Lowe's conduct that it had found proven at allegation 2 (h).

The panel considered that there was a “*plausible innocent explanation*” for Mr Lowe's conduct. As the teddy was given to Pupil B when she was leaving the School, on the balance of probabilities the panel considered it was unlikely that Mr Lowe was in pursuit of sexual gratification or in pursuit of a sexual relationship, and that the teddy was gifted as a keepsake. Both Mr Lowe and Pupil B confirmed they have had no contact since she left the School.

Therefore, the panel found allegation 4 not proven.

#### **5. [Allegation discontinued].**

## **6. Your conduct as may be proven at Allegation 3 was dishonest and/or lacked integrity.**

Given that the panel did not find allegation 3 proven, it was not necessary for the panel to go on to consider allegation 6.

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

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

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

The panel considered that although this case pre-dated any national guidance which stipulated the boundaries expected to apply to teachers, in the form of written standards or otherwise, it would be appropriate to consider the present standards for reference and assistance in decision making. The panel was satisfied that the conduct of Mr Lowe, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Lowe 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 proper and professional regard for the ethos, policies and practices of the school in which they teach....

The panel considered that under the current standards, teachers “*must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities*”. The panel noted that at the time of the events giving rise to the allegations, there would appear to be no national guidance which stipulated the boundaries expected to apply to teachers, in the form of written standards and the panel was not provided with any documentary evidence of the School’s policies or practices. However, notwithstanding this, the panel considered that Mr Lowe’s conduct would have fallen short of the standards expected at the relevant time, even if such standards were not expressed in writing. The panel considered [REDACTED] oral evidence regarding the fact she would have expected Mr Lowe’s interactions with Pupil B

to have been reported and, therefore, found that Mr Lowe's behaviour would not have been in line with the School's ethos, policies, or practices.

The panel considered that the conduct outlined at allegation 1(a) to 1(e) did not fall significantly short of the standards expected of the profession. While failing to disclose receipt of letters from Pupil B was, in the panel's view, misconduct, it did not consider it amounted to misconduct of a serious nature falling significantly short of the standards expected of the profession when the conduct occurred. In particular, Mr Lowe was passive in receiving the letters and photographs but took no action to report this. The panel considered that it fell just below the threshold of conduct that falls significantly short of the standards expected of the profession at that time.

The panel considered that, given the specific circumstances of this case, allegation 2(h) was misconduct of a serious nature. As accepted by Mr Lowe, Pupil B had a "big crush" on him. She was a vulnerable pupil who [REDACTED] The giving of a gift of a teddy holding a love heart, to a pupil who he knew had a crush on him was inappropriate and a failure to maintain professional boundaries. Therefore, the panel was satisfied that the conduct at allegation 2 (h) amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Lowe's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice. The panel found that none of these offences was relevant.

The panel received legal advice as to the possibility of findings being cumulated in accordance with guidance given in the judgment of *Schodlok v General Medical Council [2015]*. However, as the panel concluded that each of the allegations 1(a), 1(b), 1(c), 1(d), 1(e) together did not amount to misconduct of a serious nature which fell significantly short of the standards expected of the profession and concluded that allegation 2(h) amounted to unacceptable professional conduct, the panel did not need to determine whether it would be appropriate to cumulate any of those allegations.

Accordingly, the panel was satisfied that Mr Lowe was guilty of unacceptable professional conduct in respect of his conduct at allegation 2(h).

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 panel considered the duty of teachers to safeguard the welfare of pupils.

Given the seriousness of the misconduct, the panel considered both whether the misconduct would have damaged the public perception of the profession at that time; and



whether, notwithstanding the passage of time since the incidents, there would be a negative impact on the public perception of the profession today.

The panel considered that the conduct outlined at allegations 1(a) to 1 (e), would not, at the time, have been viewed by the public as serious enough to amount to conduct that brings the profession into disrepute.

In relation to allegation 2(h) the panel found that this behaviour would damage the public perception given the serious nature of the misconduct, in gifting a teddy holding a love heart to a vulnerable pupil who Mr Lowe knew had a crush on him. 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 Lowe's actions at allegation 2(h) constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a), 1(b), 1(c), 1(d), 1(e) and 2(h) proved, the panel further found that Mr Lowe's conduct at allegation 2(h) 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 a punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils 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 light of the panel's findings against Mr Lowe, which involved gifting Pupil B, a vulnerable pupil, a teddy holding a love heart, there was a public interest consideration in

the safeguarding and wellbeing 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 Lowe 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 Lowe was outside that which could reasonably be tolerated.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Lowe. 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 Lowe. 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;
- misconduct seriously affecting the education and/or well-being of pupils, and particularly where there is a continuing risk.

The panel considered whether Mr Lowe posed a continuing risk. It noted that there had been no previous decisions by the TRA relating to Mr Lowe. Additionally, Mr Lowe had continued to work in the teaching profession since the proven conduct took place, and no further allegations had been made against him. Therefore, the panel concluded that the risk posed by Mr Lowe continuing to teach was minimal.

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 Lowe's actions were not deliberate. The panel found his actions intentional.

There was no evidence to suggest that Mr Lowe was acting under extreme duress.

There was evidence that Mr Lowe contributed to the education sector and was a competent educator. In particular, the panel considered that [REDACTED] stated in her oral evidence that Mr Lowe had contributed to the School whilst he was employed, including assisting the School whilst it was in special measures.

The panel considered that Mr Lowe was entitled to deny the allegations and that denial of misconduct is not an absolute bar to finding insight. The panel considered that Mr Lowe had demonstrated some insight. The panel noted that Mr Lowe had engaged in the regulatory processes and had recognised the seriousness of the alleged conduct. Through his representative, at the third stage of the hearing, Mr Lowe acknowledged his misjudgement in gifting the teddy.

The panel did not see any evidence that Mr Lowe had demonstrated remorse.

The panel considered character references provided by the following individuals on behalf of Mr Lowe:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

The panel observed that many of the above statements were unsigned and, and that all statements lacked a declaration of truth. The panel was unclear whether the character referees were informed of the specific allegations to be determined by the panel. Therefore, the panel took all these factors into account when deciding how much weight to place on these.

The panel also noted that Mr Lowe had not provided any recent character references from those who had worked with him in a school.

*The panel considered the character reference [REDACTED]*

- *“I met Mr Lowe around 18 years ago... I can comment that Mr Lowe is a trustworthy, hard-working professional and conscientious member of staff. He was punctual, diligent in his duties... contributed wholeheartedly to extra activities.... and dedicated to the profession”.*

The panel noted that [REDACTED] was the [REDACTED] while Mr Lowe was employed as a supply music teacher around 18 years ago and, therefore, worked in a professional capacity with Mr Lowe; this statement was also signed and therefore, the panel placed some weight on this.

The panel also considered the Witness Statement [REDACTED]:

- *“At this time, my perception of Mr Lowe was that he was very popular with staff, parents and pupils. As a new Deputy headteacher in post, he was a hard working-class teacher and to the best of my knowledge fulfilled his duties effectively.”*

The panel noted that during [REDACTED] oral evidence, she referred to him as “trusted” and that she had supported Mr Lowe’s promotion to the deputy head role at the time and, therefore, placed weight on her character reference of Mr Lowe.

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.

In reaching its decision the panel considered the case of *Wallace v Secretary of State for Education 2017*. The panel concluded that a less intrusive measure would be more appropriate in these circumstances, especially taking into account the consequences of Mr Lowe being prohibited, and the fact that publication would not, in the panel’s view, strike the correct balance between Mr Lowe’s rights and the interests of the public.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. The nature and severity of the behaviour were at the less serious end of the possible spectrum. The panel considered that prohibiting Mr Lowe would serve no useful purpose, especially since he has taught pupils at various times over the past twenty-four years since the proven conduct occurred. The panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

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

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven (including allegations 2a to 2g, 3, 4 and 6), and found that some allegations do not amount to unacceptable professional conduct or conduct likely to bring the profession into disrepute (including allegations 1a to 1e). I have therefore put those matters entirely from my mind.

The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Malcolm Lowe 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 proper and professional regard for the ethos, policies and practices of the school in which they teach....

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

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 Lowe, 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 light of the panel's findings against Mr Lowe, which involved gifting Pupil B, a vulnerable pupil, a teddy holding a love heart, there was a public interest consideration in the safeguarding and wellbeing 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 has set out as follows:

“The panel considered that Mr Lowe was entitled to deny the allegations and that denial of misconduct is not an absolute bar to finding insight. The panel considered that Mr Lowe had demonstrated some insight. The panel noted that Mr Lowe had engaged in the regulatory processes and had recognised the seriousness of the alleged conduct. Through his representative, at the third stage of the hearing, Mr Lowe acknowledged his misjudgement in gifting the teddy.

“The panel did not see any evidence that Mr Lowe had demonstrated remorse.”

I have therefore given this element some 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 “public confidence in the profession could be seriously weakened if conduct such as that found against Mr Lowe was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of failing to maintain professional boundaries 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 Lowe himself. The panel has commented, “There was evidence that Mr Lowe contributed to the education sector and was a competent educator. In particular, the panel considered that [REDACTED] stated in her oral evidence that Mr Lowe had contributed to the School whilst he was employed, including assisting the School whilst it was in special measures.”

The panel placed weight on a character reference from a former colleague of Mr Lowe, which described him as “*a trustworthy, hard-working professional and conscientious*

*member of staff*". It also placed weight on the witness statement of [REDACTED], which said that Mr Lowe "was a hard working-class teacher and to the best of my knowledge fulfilled his duties effectively."

A prohibition order would prevent Mr Lowe 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, "The nature and severity of the behaviour were at the less serious end of the possible spectrum. The panel considered that prohibiting Mr Lowe would serve no useful purpose, especially since he has taught pupils at various times over the past twenty-four years since the proven conduct occurred."

I have also placed considerable weight on the panel's comments on the continuing risk posed by Mr Lowe. The panel has said "It noted that there had been no previous decisions by the TRA relating to Mr Lowe. Additionally, Mr Lowe had continued to work in the teaching profession since the proven conduct took place, and no further allegations had been made against him. Therefore, the panel concluded that the risk posed by Mr Lowe continuing to teach was minimal."

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

A handwritten signature in black ink, appearing to read 'D Oatley', with a large, sweeping flourish at the end.

**Decision maker: David Oatley**

**Date: 30 October 2024**

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