



Teaching
Regulation
Agency

Mr John (known as Jack) Philip Smith Professional conduct panel outcome

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

February 2025

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

Teacher:	Mr John (known as Jack) Philip Smith
Teacher ref number:	3448249
Teacher date of birth:	14 May 1986
TRA reference:	20923
Date of determination:	3 February 2025
Former employer:	Ashby School, Leicestershire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 12 to 15 March 2024, 19 August 2024 and 3 February 2025, to consider the case of Mr Smith.

The panel members were Ms Mona Sood (lay panellist – in the chair), Mr Stephen Chappell (lay panellist) and Mr Gerry Wadwa (teacher panellist) at the hearings held in March and August 2024. Ms Mona Sood withdrew from her position as panellist on this case following the announcement of the panel’s decision of its findings of fact and unacceptable professional conduct and conduct that may bring the profession into disrepute. Mrs Melissa West (teacher panellist) was appointed in her place.

The legal adviser to the panel was Mrs Luisa Gibbons of Eversheds Sutherland (International) LLP solicitors.

The presenting officer for the TRA in March 2024 and August 2024 was Ms Kiera Oluwunmi of Three Raymond Buildings instructed by Kingsley Napley LLP. For the 3 February 2025, the presenting officer was Calla Randall, also of Three Raymond Buildings.

Mr Smith was present and was not represented save that the cross examination of Pupil A was undertaken by Mr Michael Gomulka of 25 Bedford Row on behalf of Mr Smith.

The hearing took place in public, [REDACTED] in which Pupil A had been involved and details regarding Mr Smith’s referees were heard in private. The hearing was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 22 December 2023.

It was alleged that Mr Smith was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst working as a teacher:

1. In approximately 2015, whilst employed as a teacher at Chellaston School, he engaged in over-familiar and/or inappropriate conduct with Pupil A in that he:
 - a. on one or more occasions met with Pupil A alone in his classroom after school;
 - b. hugged Pupil A;
 - c. shared details of his personal life with Pupil A;
2. Between approximately 2015 and 2021, after he had left Chellaston School, he continued to maintain contact with Pupil A and their relationship went beyond the professional relationship of teacher and former pupil;
3. Between approximately 2015 and 2021, in respect of Pupil A who was a former pupil during this time, on one or more occasions, he:
 - a. sent emails and/or messages to Pupil A;
 - b. contacted Pupil A via telephone;
 - c. met with Pupil A;
 - d. sent images of himself to Pupil A;
 - e. told Pupil A that he “loved her” or words to that effect;
 - f. sent messages to Pupil A that were of a sexual nature;
 - g. engaged in conversations with Pupil A that were sexual in nature;
4. His conduct at paragraphs 1 – 3 above was sexually motivated.

Mr Smith denied all of the allegations against him save for allegation 3.a., 3.b. and 3.c. He denied that he was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application for special measures in respect of Pupil A

The presenting officer applied for Pupil A to be considered a “vulnerable witness” pursuant to paragraph 5.102 of the Teacher misconduct – Disciplinary Procedures for the teaching profession May 2020 (“the Procedures”) by reason of being the alleged victim of conduct which is the subject of an allegation against the teacher of a sexual nature. The

presenting officer applied for a direction that Mr Smith not be permitted to cross-examine Pupil A other than via a representative (either instructed by Mr Smith, or instructed by the TRA on Mr Smith's behalf).

Mr Smith did not object to the application.

The panel noted that Pupil A is the alleged victim of conduct which was the subject of an allegation against Mr Smith of a sexual nature. The panel was satisfied that in those circumstances, the quality of Pupil A's evidence was likely to be adversely affected at a professional conduct panel hearing unless their interests were safeguarded by appropriate measures. The panel was satisfied that Pupil A met the definition of a vulnerable witness. The panel noted that, pursuant to paragraph 5.106, where such an alleged victim gives evidence the teacher "will not be permitted to examine or cross-examine the witness in question other than via a representative." The panel therefore directed that cross-examination of Pupil A be undertaken by the representative appointed for this purpose, Mr Michael Gomulka.

Mr Gomulka subsequently raised the issue of the parameters of his questioning with the panel in respect of the following two issues:

1. Whether he should put areas challenged by Mr Smith to Pupil A, or whether it was sufficient in these proceedings that such denials were already apparent to the panel; and
2. Whilst Mr Gomulka had no interest in examining the nature and content of allegations in [REDACTED].

The presenting officer indicated that given that a central issue in this case would be the credibility of Pupil A, she did not oppose the questioning of Pupil A in either of these respects.

The panel considered that disputed matters should be put to Pupil A, as is the usual position during cross-examination. The panel considered it was important that Pupil A be given the opportunity to respond to the matters raised.

The panel was content to allow questioning around the chronology of the [REDACTED].

Application to exclude the public

Mr Smith applied to exclude the public from the entirety of the hearing on the basis of the potential ramifications for him if the allegations were heard in public, given their nature. Furthermore, Mr Smith was concerned that personal matters pertaining to [REDACTED] were not in the public interest to be aired and ought to be heard in private.

The panel determined not to exercise its discretion under paragraph 11 of the Regulations and paragraph 5.85 of the Procedures that the public should be excluded from the hearing.

The panel took into account the general rule that hearings should be held in public and that this is generally desirable to maintain public confidence in the administration of these proceedings and also to maintain confidence in the teaching profession. The panel balanced the reasons why the teacher had requested that the public be excluded against the competing reasons for which a public hearing is required.

The panel considered that any teacher subject to proceedings of this nature would be likely to be concerned regarding their reputation. However, in due course, a judgment delivered in public will refute any unfounded allegations. Excluding the public for reasons of reputation would result in unacceptable inroads to the general rule that hearings be open to the public.

The panel noted that any departure from the general rule has to be no greater than the extent reasonably necessary and that interference for a limited period of the hearing was preferable to a permanent exclusion of the public. The panel considered whether there were any steps short of excluding the public that would serve the purpose of protecting the confidentiality of third parties. To the extent it becomes necessary during the course of the hearing to discuss such matters, the panel can exclude the public from that portion of the hearing only.

Summary of evidence

Documents

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

Section 1: Chronology and list of key people – pages 5 to 7

Section 2: Notice of proceedings – pages 8 to 12

Section 3: Teaching Regulation Agency witness statements – pages 13 to 23

Section 4: Teaching Regulation Agency documents – pages 24 to 426

Section 5: Teacher documents – pages 427 to 433

In addition, the panel agreed to accept the following on the basis that they were relevant to the application for special measures in relation to Pupil A and that it was fair to admit them, since there was no objection to the application.

Section 6: Application by the presenting officer for special measures and associated documents – pages 434 to 493

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

In advance of the reconvened hearing on 19 August 2024, the panel was provided with transcripts of the hearing that took place on 12 and 13 March 2024. In advance of the hearing on 3 February 2024, the panel and Mr Smith were provided with the written decision of its findings announced on 19 August 2024.

Witnesses

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

Pupil A

Witness B – [REDACTED].

Mr Smith also gave oral evidence to the panel.

Decision and reasons

The panel announced its decision and reasons as follows:

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

On 1 September 2012 until 31 December 2015, Mr Smith was employed as a teacher at Chellaston Academy (“the School”). From 1 January 2016 until 23 August 2017, he was employed as a teacher of English and as an “assistant more able coordinator” at Plantsbrook School. On 24 August 2017, Mr Smith was employed as a teacher of English at Ashby School.

On 26 November 2021, Mr Smith was arrested by the police in connection with allegations made by Pupil A and Mr Smith was suspended from his role at Ashby School. A police investigation ensued and the police decided to take no further action. Ashby School conducted an investigation and a disciplinary hearing was held on 1 July 2022. Mr Smith was referred to the TRA on the same day.

[REDACTED].

Findings of fact

The findings of fact are as follows:

There were fundamental differences between the accounts of Pupil A and Mr Smith.

Pupil A’s account was that whilst he was teaching at the School, Mr Smith had been the [REDACTED] and Pupil A had gone to his classroom to chat with him. Pupil A explained that they had been going through a difficult time outside of school due to a [REDACTED], and that Mr Smith had supported them. During this time, Pupil A explained that Mr Smith had shared details about his private life with them. Pupil A said that when Mr Smith left

the School at the end of December 2015, they exchanged gifts and he gave Pupil A his personal email address and phone number. Pupil A stated that after that, Mr Smith sent [REDACTED] emails or WhatsApp messages regularly, that he was always quick to respond and they also spoke on the phone. Pupil A referred to there having been an escalation in the messages whilst they remained a pupil of the School. This escalation started with Mr Smith sending [REDACTED] a WhatsApp message to say he wished he had kissed [REDACTED] when he hugged [REDACTED] goodbye as he left the School at the end of 2015, and developed into messages regarding his sexual desires towards [REDACTED]. Pupil A stated that Mr Smith sent messages referring to oral sex; there were text messages sent late at night when Mr Smith had been drunk and Pupil A described one sexualised phone call. Pupil A referred to messages of this nature having continued until at least 2019. Pupil A also referred to Mr Smith having shared aspects of his personal life with [REDACTED] and provided details of the information he had shared.

Pupil A was largely unable to adduce evidence of Mr Smith's communications with them save for providing two emails (one sent by Mr Smith in November 2019, and the other sent by Mr Smith in May 2020) and a call log evidencing a call with Mr Smith in November 2019 and a missed call. Pupil A explained that when they were a witness in the [REDACTED] they had deleted the messages and emails between [REDACTED] and Mr Smith. Pupil A stated that they "had to provide their devices to the police" and they were worried that Mr Smith would get into trouble. In oral evidence Pupil A clarified that they were not required to surrender their devices to the police, but had provided their password so they could access Pupil A's email account. Pupil A explained that at the time they had not considered that their relationship with Mr Smith was inappropriate as [REDACTED].

Pupil A stated that [REDACTED] that they mentioned their relationship with Mr Smith to the police, as they had started to realise their relationship had been inappropriate. Pupil A stated that they stopped all contact with Mr Smith in 2021, blocking him from WhatsApp and removing him from their social media.

Pupil A was contacted by Witness B to provide a statement as part of Ashby School's disciplinary procedure. As part of the investigation Pupil A shared the screenshots of two emails and call log referred to above, these being the remaining communications Pupil A could find between [REDACTED] and Mr Smith. The emails appear to indicate that Pupil A sought Mr Smith's input [REDACTED]. His email responses demonstrated he provided encouragement and grammatical corrections.

Mr Smith's position was that he provided pastoral support to Pupil A whilst he worked at the School. Whilst they maintained contact by email after he left the School at the end of 2015 and he provided support and encouragement, he denied any contact with Pupil A of a sexual nature. He stated that the relationship changed in the summer of 2019 when Pupil A informed him of [REDACTED]. He stated that it was only then that he shared his phone number with Pupil A at their request to support them during that difficult time. He

explained that Pupil A had also asked him to help them with [REDACTED] and that he viewed this as being of therapeutic value to them. In oral evidence, Mr Smith explained that he had shared aspects of his personal life with Pupil A during their contact in 2019.

Given the differing chronologies and accounts of the nature of the relationship, and since there was very little documentary evidence, save for the emails and call log referred to above, the panel had to very carefully examine the credibility of Pupil A and Mr Smith by examining matters such as:

- whether their accounts remained consistent during the course of giving evidence;
- whether their accounts remained consistent with what they said on other occasions;
- how inherently probable their evidence was and;
- the extent to which the witness evidence was corroborated or contradicted by contemporaneous evidence to the limited extent the panel had this available to them.

Both witnesses gave oral evidence and their evidence was tested by both cross-examination and questioning by the panel.

The panel examined the issue of when Pupil A was provided with Mr Smith's personal contact details, as only after this could there have been the opportunity for the events said to have taken place by Pupil A to have happened.

Pupil A remained consistent throughout Ashby School's disciplinary investigation, their written statement for this panel and in oral evidence that Mr Smith gave them his personal email address and phone number when he left the School at the Christmas break in December 2015.

Mr Smith's position has been inconsistent between his various accounts. In his interview with Witness B as part of Ashby School's disciplinary investigation, Mr Smith stated that he had stayed in touch with students including Pupil A and that he had "said to a lot of students that they could stay in touch and I gave them my email address." He referred to being in touch with those students and was asked "By what method?" and Mr Smith replied "Email mostly. On Ashby email as well." The questioning and answers continued:

"Using your private email account?"

"Yes briefly"

"You are leaving Chellaston and you kept in contact. How did it come that you exchanged contact details as you would have no Chellaston email?"

"After school on the last day, students came to my room on the last day. Students wanted to keep in touch. I gave students my personal email address."

“Was email the only communication method with [Pupil A]?”

“Later by text messages”

“And what about WhatsApp?”

“Yes”

“In summary, Ashby email, private email, text and WhatsApp.”

“Yes”...

“After you left [Pupil A] alleges you started regularly communicating via a variety of means and that this continued until some time in 2020”

“Agreed”.

The panel has seen an email to Mr Smith of 27 June 2022 asking Mr Smith for any comments he wished to make on the investigation interview notes. Mr Smith responded that there was one comment he wished to add to the notes regarding an introductory comment made by Witness B at the start of the meeting. There were no other comments, and the panel therefore concluded that the interview note recorded accurately Mr Smith’s responses.

Despite having accepted in this disciplinary interview that he had provided his personal email address to Pupil A and others when he left the School, in written evidence that Mr Smith provided for the present proceedings, Mr Smith stated that he “maintained contact with Pupil A via school email.” In oral evidence, Mr Smith stated that there had been around 10 pupils in his classroom at the end of his last day at the School, some of which were students he had taught English, some were members of his form group and Pupil A had also been there. He stated that he put his new school email address on the board. He described having been pressured by the management of the School not to take the position he had been offered, and it was presented that he was abandoning [REDACTED] students as they were about to undertake their mock examinations. He stated that he had felt guilty about leaving the School part way through the school year, and thought that if he provided his contact details he might be able to continue to help the pupils if they needed support with their education or what was happening next in their lives.

Mr Smith accepted in oral evidence that his provision of contact details to pupils was “completely misguided” and that the staff had been more than capable of helping those pupils with anything they required. The panel noted he did not teach Pupil A and would not have required continuity of any academic support after his departure.

Mr Smith said in oral evidence that he did not share his personal email address with Pupil A until between August and December 2019 after the [REDACTED]. He stated that he

had shared this towards the end of 2019 when Pupil A wanted his help with the [REDACTED]. He stated that Pupil A had asked if they could send something to his personal email address. The panel did not consider that it was plausible that the email address was provided for the purpose of assisting [REDACTED] for the following reasons. Pupil A had sent an email to him on 20 November 2019 with the subject "Assignment". Mr Smith confirmed that this had been in connection [REDACTED]. Mr Smith responded from his Ashby School email address as the email contained his professional signature block with Ashby School's contact details. It could not therefore have been that Pupil A wanted to send their [REDACTED] only to a personal email address, Mr Smith had responded from his Ashby School email address.

The panel was concerned as to why Mr Smith had changed his position from admitting that he provided Pupil A with his personal email address when asked during the School investigation to now saying that he only provided in in late 2019. There was the possibility of Mr Smith having been mistaken earlier, but it would be expected that he would have been careful in his answers during Ashby School's investigation as his job was at stake. Similarly he had been given the opportunity to read through his answers and made no correction to the accuracy of his responses. The panel considered that this seriously affected Mr Smith's credibility, as by changing his position it appeared that Mr Smith was seeking to remove the opportunity for conduct of the nature described by Pupil A to have occurred.

In Mr Smith's interview as part of Ashby School's disciplinary investigation, he was asked about the regularity of contact with Pupil A and responded "A few times a week, precipitated by both" and described the nature of those communications as being "general, when [REDACTED], asking how they were getting on. Pupil A said they were struggling with a lot of things. They may have needed someone to talk to and provide encouragement. Pupil A sent work to my Ashby email to me to read. Pupil A asked me for help with a [REDACTED] about their personal experiences". In oral evidence, Mr Smith stated that from when he left the School until around July 2019 there was communication between them once or twice a week at the most, but it was sporadic and this was sometimes less frequent. From July 2019 to around the Summer of 2020, Mr Smith described more frequent communication in the aftermath of Pupil A's involvement in [REDACTED] and since this was a difficult time for them, he was at hand, and said that possibly it helped Pupil A to tell someone what was happening. He described that he provided a "sounding board for the ideas Pupil A [REDACTED]" and that he thought that "if it would be helpful for them to do that", he would "encourage that and help Pupil A deal with what had happened."

The panel noted that the police provided some information to Ashby School. This included reference to an examination by a Detective Constable of Mr Smith's devices. This found that Pupil A's telephone number was amongst Mr Smith's WhatsApp contacts, but that there were no messages present on his device between Mr Smith and Pupil A. Had messages been of the nature described by Mr Smith, it might be expected that these

would have been found. Mr Smith was asked about this in oral evidence and stated “I’m not sure why they weren’t able to find them” and “I could have deleted them, I don’t know” and later in oral evidence “I suppose possibly deleted, but can’t say for definite. Not something I can remember.” The panel was conscious that the burden of proof in this case is upon the presenting officer. Mr Smith did not have to adduce any evidence of the messages, as it was not incumbent upon him to prove his innocence. However, the panel considered the plausibility of Mr Smith’s answers. Given that the messages are at the heart of this case, the panel did not consider that it was plausible that Mr Smith would not have known what had happened to them.

The panel also considered Pupil A’s credibility. The panel noted there was no suggestion that Pupil A had any particular motive to have fabricated the allegations.

The panel noted that there did not appear to be any exaggeration in their account, as might be expected if it was fabricated. For example, Pupil A was able to provide a detailed account of images Pupil A stated that they had received from Mr Smith, but they were not images of an overtly sexualised nature. Pupil A was able to describe the messages they received that were of a sexual nature, and gave examples of receiving these when they understood Mr Smith to have been drunk, he having apologised for his behaviour the following morning. Pupil A did not make any suggestion there was any sexual contact on the one occasion they met up some years after he left the School. Pupil A referred to Mr Smith having said that he wished he had kissed them when he left the School, but there was no suggestion that any kiss had occurred at any point.

Pupil A made concessions in their evidence both during their interview as part of Ashby School’s investigation and in oral evidence. For example, in Ashby School’s investigation Pupil A referred to Mr Smith sending them images and said “I presume I sent some back”. Pupil A was asked if Mr Smith had asked [REDACTED] to send them. Pupil A responded “Yes I think so, it’s difficult to remember as it crosses over with the other person” referring to [REDACTED]. Had Pupil A been exaggerating, it might have been expected that they would have said that they had sent images at Mr Smith’s request. However, instead of that, Pupil A was entirely prepared to accept that they were not sure given what had been happening in [REDACTED].

The panel considered whether Pupil A could have been mixing up their memory of what happened with Mr Smith with what had happened in [REDACTED]. Pupil A was asked about this in cross-examination by Mr Gomulka and confirmed there was no doubt in their mind as to their recollection of Mr Smith’s conduct and the content of the messages he sent to them. The panel noted that Pupil A had been willing to accept when they were uncertain namely whether they had sent images of [REDACTED] in return to Mr Smith. Those aspects upon which Pupil A was certain were therefore more credible.

The panel considered whether Pupil A’s knowledge of matters in Mr Smith’s personal life corroborated their account. However, the panel did not consider this took matters further. Mr Smith provided an explanation of how he shared some apparently innocuous

information whilst he was at the School with pupils, and also that there did come a time in 2019 after their communication increased when he did share personal details with Pupil A. There was no independent evidence to show that Pupil A knew aspects of Mr Smith's personal life at any particular point in time, that would have corroborated their account.

Overall, the panel found Pupil A's account to have remained consistent through the accounts they gave during Ashby School's investigation, their written statement for the present proceedings and their oral evidence. To the extent their account could be corroborated with the email screenshots that were available to the panel, this supported what Pupil A was saying. Pupil A has consistently said throughout that when they sent Mr Smith an email he would always reply "really quickly". The panel noted that this was consistent with the email exchange of 20 November 2019 when Pupil A emailed him at 11:01 and Mr Smith responded the same day. On Mr Smith's account he replied during the same morning break time.

The panel considered the plausibility of Pupil A's account that they had deleted emails and messages between [REDACTED] and Mr Smith at the time they were approached by the police in relation to [REDACTED]. Pupil A's witness statement stated that they had to "provide my devices to the police and I was worried he would get into trouble" and Pupil A explained that "At that time, I didn't think the relationship I had with John Phillip Smith was inappropriate as I was [REDACTED] ... and it wasn't as bad." The panel considered this to be a plausible explanation. Both Mr Smith and Pupil A's accounts were that they remained in contact at this time. Mr Smith's account was that he provided Pupil A with support during the difficult period in 2019, and it was clear that Pupil A felt comfortable [REDACTED] with him for example.

In oral evidence, Pupil A stated that, after this, they had deleted messages with Mr Smith as they went along, and that they were not sure how they had missed deleting the two emails they provided to Witness B during Ashby School's investigation. Pupil A said they had not been as rigorous about deletion because at that point they were not worried that the police would be looking at their emails. Pupil A stated that deleting had consisted of sliding their finger across the message and selecting delete, rather than any more sophisticated deletion process. In respect of WhatsApp conversations, Pupil A stated that they simply deleted the entire conversation. In response to panel questions, Pupil A stated that they did not think they did in fact provide their phone to the police in connection with [REDACTED], given the evidence the police already had from seizing the devices of the [REDACTED]. Pupil A believed that they had only provided the password for their email account. The panel noted that this was a slight change of position in that earlier Pupil A had talked about having to provide their devices to the police. However, the panel accepted that may have been Pupil A's expectation when they had undertaken the deletion, and also that providing the password of their email account to the police would still have been sufficient to have prompted their deletion of their emails. This was not therefore a material inconsistency. The panel also accepted that it was possible that

the deleted messages had not been found if Pupil A's devices were not retained for forensic examination by the police.

On balance, having assessed the credibility of both Pupil A and Mr Smith carefully, the panel considered that it found Pupil A's account to be more credible.

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

Whilst working as a teacher:

1. In approximately 2015, whilst employed as a teacher at Chellaston School, you engaged in over-familiar and/or inappropriate conduct with Pupil A in that you:

a. on one or more occasions met with Pupil A alone in your classroom after school;

Pupil A's account was that whilst he was teaching at the School, Mr Smith had been the [REDACTED] and they had gone to his classroom to chat with him. Pupil A explained that they had been going through "quite a hard time outside of school", and that Mr Smith had supported them. Pupil A explained that [REDACTED] and Mr Smith had been someone they could talk with about it. Pupil A stated that there were times when, if they did not want to go to their lessons, Mr Smith allowed them to sit at the back of his lessons. Pupil A stated that sometimes they would be by [REDACTED] with him in his classroom, or with others if he was teaching. Pupil A stated that there were also times when they would go to his classroom after school on their own. In oral evidence Pupil A stated that when they visited his classroom on their own, they would walk in and close the door.

In Mr Smith's interview as part of Ashby School's disciplinary investigation, Mr Smith was asked how Pupil A became known to him. Mr Smith responded that he did not teach Pupil A but students would come to his classroom after school. He was asked how many students would be working in his classroom after school. Mr Smith responded "5 – 10, sometimes 2 or 3". He was then asked whether there were any occasions when this involved a single person and Mr Smith responded "Maybe, sometimes. The door was always open and it is next to the English staff room." He was asked about his relationship with Pupil A given that he did not teach them. He explained that they would chat and he explained that sometimes Pupil A was quite upset.

In oral evidence Mr Smith was certain that he had not been alone in the classroom with Pupil A. He stated that the latest he would leave the School was around 4:00 to 4:15pm and that other members of staff did not leave until around 5:00 or 5:30pm so there were always colleagues around. There was therefore up to an hour after School finished when students could come to his classroom before he left.

Mr Smith previously accepted that there were occasions when he might sometimes have been alone with a pupil, yet during this hearing he had changed his position to say that he was never alone with Pupil A. The panel did not find Mr Smith's account credible.

The panel noted that Mr Smith had explained that he had followed the School procedure if Pupil A or another pupil attended his classroom while they were taking "time out" from their lessons, as was permitted. He stated that he notified the head of year and pastoral team to ensure they knew the pupils' whereabouts in the event of a fire drill, for example. Mr Smith did not make any reference to any information he provided for safeguarding purposes as a result of Pupil A or other pupils attending his classroom after school hours.

The panel noted that Witness B had interviewed another teacher who worked at the School at the relevant time. The panel considered the note of the interview to be admissible, even though that person did not give oral evidence to the panel, as it was not the sole or decisive evidence in support of any allegation. The panel did not place significant weight on the interview note but it did lend some support for Pupil A's account as it records that Mr Smith would often have students working in his classroom at the end of the day. The teacher recalled that there were usually about 2-3 students and she had found it odd for a young male teacher to have students coming in regularly. The teacher was aware of Pupil A and another pupil attending and the teacher said she remembered feeling that they thought it was somewhere they felt safe and they had a rapport with Mr Smith.

Given the inconsistencies in Mr Smith's account, the consistency of Pupil A's account, and the corroboration of the other teacher that pupils would visit Mr Smith's classroom after school, the panel found that it was more probable than not that Mr Smith had on one or more occasions met Pupil A alone in his classroom after School.

In Pupil A's witness statement they stated that their friendship with Mr Smith had created a point of tension with their [REDACTED] who were close to him and that they would sometimes fall out if he was showing one of them more attention than the other. Pupil A provided an account of one occasion when they had been in his classroom and the door had been open and another pupil walked past and saw them chatting. Pupil A stated that the pupil had "stormed off in a huff" and that Mr Smith had ran off after her. Mr Smith was therefore aware of the possibility of a pupil becoming over friendly with him given it was causing tensions between pupils and ought to have taken steps to guard against the risks of being alone with a pupil. It was Mr Smith's duty to observe proper boundaries and the onus was not on the pupil. Since Mr Smith was providing pastoral support to Pupil A outside the usual school support mechanisms it was incumbent upon him to protect himself from allegations.

The panel therefore considered this to be over-familiar or inappropriate conduct on the part of Mr Smith.

The panel found this allegation proven.

b. hugged Pupil A;

Pupil A's evidence was that on Mr Smith's last day, after school had finished, Mr Smith gave them a hug to say goodbye.

In the notes of Mr Smith's interview as part of Ashby School's investigation, Mr Smith was told that Pupil A alleged that he hugged them on at least one or more occasions and was asked if that had happened. Mr Smith responded "No. Well perhaps that last day when I left, that might have happened but other than that no." In his written account in the present proceedings, he stated "I did not hug Pupil A. On my last day in 2015, several students asked me for a hug; however, this was in the presence of other staff members and pupils." In oral evidence, Mr Smith stated that there were several students in the room when he was leaving, and a couple of them asked for a hug. He stated that he couldn't say if Pupil A was one of them.

In oral evidence, Pupil A described the hug. Pupil A stated that they were fairly certain the door was closed. Pupil A had given him a leaving gift and they were definitely alone. Pupil A stated that "he hugged me for a long time, quite tightly." Pupil A was asked how this made them feel, and they said it made them feel nervous but quite flattered that he was showing her attention.

When questioned about the nature of the gift, Pupil A responded without hesitation.

Given Pupil A's evidence that he hugged them, and Mr Smith accepted the possibility that Pupil A may have been one of those students who asked him for a hug, the panel found it more probable than not that he hugged Pupil A.

The panel considered that this too was over-familiar and inappropriate conduct on the part of Mr Smith. He ought to have been alive to the risk of a pupil developing a friendship towards him that crossed professional boundaries. Given that Pupil A had sought his support in respect of [REDACTED], he ought to have exercised care to avoid physical contact.

The panel found this allegation proven.

2. Between approximately 2015 and 2021, after you had left Chellaston School, you continued to maintain contact with Pupil A and your relationship went beyond the professional relationship of teacher and former pupil;

Pupil A gave evidence of the personal contact between them and Mr Smith after they left the School.

Mr Smith accepted that he and Pupil A maintained contact after he left the School. He referred to this being at the most once or twice a week, but that it had been sporadic. He stated that there was more communication after he became aware of Pupil A's involvement in [REDACTED] and that he had sought to be a sounding board for them.

During this time, he confirmed that he had provided details pertaining to [REDACTED]. He stated that he had been trying to explain to Pupil A that seeking help was a positive step but that an aspect of this had been sharing his own personal life to get things “off my chest”.

In the notes of Mr Smith’s interview as part of Ashby School’s investigation, Mr Smith referred to having alluded to [REDACTED], that he had shared personal details about his [REDACTED] and had talked a little about [REDACTED]. He stated “I didn’t have anyone else to talk to. Pupil A created a distance as I was talking to someone [REDACTED] did not know in person. It had built up and up and I needed someone to talk to.” He was asked how he reflected on that in hindsight and confirmed “It doesn’t seem the right thing to have done.” Mr Smith was asked how this would “get to feeling normal or natural with someone he last knew when [REDACTED]”. Mr Smith responded that because Pupil A “had been so open about their feelings and [REDACTED] it was a repository of trust.” The notes record that Witness B stated he was trying to explore where a relationship had evolved where that level of intimate detail was appropriate. Mr Smith responded “I assumed they were a friend or someone I could talk to.”

The panel found it proven that after Mr Smith left the School he maintained contact with Pupil A and that the relationship went beyond the professional relationship of teacher and former pupil. On Mr Smith’s account, the relationship had been built on the foundations of the personal information divulged by Pupil A when they were a pupil and he used this for his own emotional support in the years thereafter, regardless of whether that was in the interests of Pupil A’s own welfare.

3. Between approximately 2015 and 2021, in respect of Pupil A who was a former pupil during this time, on one or more occasions, you:

a. sent emails and/or messages to Pupil A;

The panel has seen two emails from Mr Smith to Pupil A. The first was dated 20 November 2019 sent by Mr Smith from his Ashby School email address with the subject “Re Assignment” and the second was dated 5 May 2020 from Mr Smith with the subject “Re: [REDACTED]”.

Mr Smith admitted this allegation.

The evidence of these emails themselves indicated Mr Smith had sent emails to Pupil A in the relevant time period and that they were a former pupil at the time.

The panel found this allegation proven.

b. contacted Pupil A via telephone;

The panel has seen a screenshot of a call log showing an outgoing call and a missed call to Mr Smith’s number on 11 November 2019. The panel noted that this email was

exhibited to the statement of Witness B who carried out the investigation on behalf of Ashby School. This stated that Pupil A had provided the call log.

Pupil A confirmed that they had shared this call log with Witness B as part of Ashby School's disciplinary procedure. Pupil A's evidence was that the phone calls started after Mr Smith left the School, they continued to be in contact and that they would receive phone calls from him up until the end of 2019.

Mr Smith admitted this allegation, albeit it was his account that he had not spoken with Pupil A via telephone until 2019 when he supplied his phone number at Pupil A's request.

Since the call log at least corroborated Pupil A's account that they were in telephone contact at the end of 2019, this allegation was found proven.

c. met with Pupil A;

Pupil A's evidence was that Mr Smith had asked if they would like to meet up with him on a number of occasions. Pupil A stated that they met up only once, and that was when [REDACTED]. Pupil A stated that they remembered that Pupil A drove to the meeting, so must have been at least [REDACTED]. Pupil A stated that they went to a pub, not far from Mr Smith's house, near to an [REDACTED]. Pupil A stated that they stayed for an hour or two and had a drink. Pupil A stated that, afterwards, Mr Smith would often say how nice it was to meet up and that they should do it again. In oral evidence, Pupil A stated that the meeting had definitely taken place before the Summer of 2019.

Mr Smith admitted this allegation. Mr Smith provided a written statement and confirmed in oral evidence that he met with Pupil A in roughly 2019. In his written statement he described this as a "very brief meeting in which Pupil A wanted to discuss their plans for attending [REDACTED]". In oral evidence, Mr Smith denied that he had instigated the meeting, and stated that he had not suggested they meet up on a number of occasions. He initially stated that he believed the meeting took place in around late August or early September as they discussed the [REDACTED] that Pupil A would be attending, that they were going to do a different course than they originally intended. Mr Smith subsequently clarified that the meeting was before the [REDACTED]. He also stated that the meeting had taken place in the wake of Pupil A having told him of their involvement in [REDACTED]. He stated they discussed the progress of [REDACTED] without going into details. He stated that Pupil A had not been specific as why they had wanted to meet up but that he felt "sorry for [REDACTED]" as a result of their involvement in [REDACTED].

Although Mr Smith and Pupil A's accounts differed as to when the meeting took place, there was no dispute that the meeting had occurred and on either account it was within the time period alleged.

The panel found this allegation proven.

d. sent images of yourself to Pupil A;

Pupil A stated that Mr Smith sometimes sent them photographs of him at the gym and there was once a photograph that he sent Pupil A of him in his underwear. Pupil A was questioned about this and was able to describe the photographs in detail.

Mr Smith denied sending these images.

The panel considered that had Pupil A fabricated this allegation, Pupil A would likely have exaggerated them. The images described were not overtly sexual, as would have been expected if the description given had been exaggerated.

For the reasons referred to above, the panel found Pupil A's account to be more credible than that of Mr Smith, and the panel found this allegation proven.

e. told Pupil A that you “loved her” or words to that effect;

The panel has seen an email sent by Mr Smith from his Ashby School email address to Pupil A dated 20 November 2019 in response to an email from Pupil A of the same date timed at 11:01 with the subject “Re: Assignment.” Mr Smith's response states “Hey, I've had a quick read through and added a couple of commas! Really interesting. Love you xxx.”

Mr Smith provided an explanation that he had rushed to comment on Pupil A's [REDACTED] during break time in the school day, and that in haste, he had accidentally signed off the email with “Love you xxx”. The panel did not consider that it was necessary for its consideration of this allegation to decide whether it accepted Mr Smith's explanation. On the face of the email alone, these words had been said to Pupil A, and in November 2019, Pupil A was a former pupil.

The panel found this allegation proven.

f. sent messages to Pupil A that were of a sexual nature;

Pupil A gave evidence that after they left the School, Mr Smith sent them a WhatsApp message to say that he wished that he kissed them at the same time that he hugged them, and that he brought this up on multiple occasions afterwards.

Pupil A also stated that whilst they were still a student at the School, there was an escalation in the messages. Pupil A stated that he would express his sexual desires towards them and describe what he wanted to do to them in great detail. When he said again that he wished he had kissed them, he became quite graphic about where he wanted to kiss Pupil A and touch them. Pupil A stated that he spoke a lot about oral sex and what he wanted to do with them. The panel tested Pupil A's understanding of oral sex and was satisfied that their description was an accurate one.

Pupil A also stated that they received quite a few “drunk text messages” from Mr Smith that were sexual in nature, again saying what he would like to do with them. Pupil A

stated that as they were sent late at night, Pupil A would not see them until the following morning, when he would text again and apologise for his behaviour and say that he had been drunk.

Mr Smith denied this allegation.

Given the inconsistencies in Mr Smith's account of when personal contact details were provided to Pupil A, the panel accepted Pupil A's account that Mr Smith had provided his personal email address and phone number to Pupil A when he left the School. The ability to contact Pupil A using his personal email address and phone number made it possible for messages of a sexual nature to be exchanged without being detected by school systems.

The panel was conscious that this allegation is of a particularly serious nature which reinforced their need to examine carefully the strength and quality of the evidence. This included considering the inherent unlikelihood of the occurrence taking place. In that regard, the panel considered Mr Smith's stated reasons for making available contact details for pupils to contact him after he left the School. Although Mr Smith may have felt some guilt at leaving the School part way through the year, it was at the end of the Autumn term rather than being later in the year when examinations were imminent. He also recognised that he was "completely misguided" as the other teachers were capable of providing the ongoing support. It did not appear to be plausible for a teacher to have risked breaching proper professional boundaries in this manner with no obvious benefit to either the pupils or himself of an innocent nature. The panel considered that it was more likely than not that he provided his personal email address and phone number to Pupil A with a view to continuing a friendship which crossed professional boundaries.

Given the consistency of Pupil A's evidence as to the messages of a sexual nature that they received, and the opportunity that Mr Smith had opened up by providing his personal contact details, the panel considered that it was more likely than not that he sent messages to Pupil A of a sexual nature after he left the School.

The panel found this allegation proven.

g. engaged in conversations with Pupil A that were sexual in nature;

Pupil A described in their evidence that they had a phone call late at night, after Mr Smith [REDACTED] and was living alone [REDACTED], "when he was asking Pupil A to talk about fairly sexual things and was audibly touching himself". Pupil A stated that they were still at the School and around [REDACTED]. Pupil A stated that he "asked me to touch myself while he touched himself." Pupil A stated that he also suggested around this time that they go to his home [REDACTED] to see him.

Mr Smith confirmed in evidence that he had lived alone [REDACTED] after he [REDACTED]. He stated that his relationship with his [REDACTED] in around June 2016, but that he had not told Pupil A this until he had told them about his [REDACTED] in

around 2019. The panel did not consider that it was likely that he would have revealed the timing of his [REDACTED] if he was telling Pupil A in 2019 about a [REDACTED]. Had Pupil A fabricated this phone call, Pupil A would have been unlikely to have known retrospectively that Mr Smith had lived alone for a period of time, in order to place the allegation at that time.

Mr Smith denied this allegation.

For the same reasons as those referred to in respect of allegation 3.f. and given the assessment the panel made in which it preferred the credibility of Pupil A's account over that of Mr Smith's account, the panel found this allegation proven.

4. Your conduct at paragraphs 1 – 3 above was sexually motivated.

As referred to above, it did not appear to be plausible for a teacher to have risked breaching proper professional boundaries to have shared personal contact details with Pupil A given there was no obvious benefit to either the pupil or himself of an innocent nature. The panel considered that it was more likely than not that he provided his personal email address and phone number to Pupil A with a view to opening a line of communication with a view to continuing their friendship which crossed professional boundaries.

It was apparent to the panel that their relationship was built on the foundations of the personal information divulged by Pupil A and the support he provided in response to their obvious vulnerability when they were a pupil.

Pupil A's emotional dependence upon Mr Smith continued to grow as was evidenced by the fact that it was Mr Smith that Pupil A turned to for support when they became involved in [REDACTED]. Sharing aspects of his own life developed the trust between them. It also made it less likely Pupil A would reveal the nature of their relationship if Pupil A perceived him as a friend.

Since the relationship quickly escalated with Mr Smith testing the waters saying that he wished he had kissed Pupil A, to sending messages of an overtly sexual nature and holding conversations with them of a sexual nature, the panel was satisfied that this inferred his conduct at paragraphs 2 – 3 above was sexually motivated. Pupil A described him obtaining sexual gratification during a phone call with them.

The panel found this allegation proven in respect of allegations 2 and 3. The panel did not consider that it had been proven that Mr Smith's conduct was sexually motivated whilst he worked at the School.

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

1. In approximately 2015, whilst employed as a teacher at Chellaston School, you engaged in over-familiar and/or inappropriate conduct with Pupil A in that you:

c. shared details of your personal life with Pupil A;

In Pupil A's evidence they stated that after they had begun to see Mr Smith to talk with him "later, [Mr Smith] also started to share details with me of his personal life. He would complain about his [REDACTED], and said that [REDACTED]. He was quite stressed about it. The panel did not consider there was sufficient evidence of when Mr Smith had made this known to Pupil A and whether this was in 2015.

Pupil A referred to Mr Smith messaging them when he was in Paris with [REDACTED] at the time. Mr Smith explained that he had visited Paris over the Christmas break and that he told the students this as he was leaving having been asked what he was doing during the Christmas holidays. Mr Smith also stated that sometimes he would share information, for example if a pupil asked him about a photograph he kept in his classroom, and he would say who the family members depicted were.

Whilst there was an admission that Mr Smith had told pupils he was going to visit Paris over the Christmas holidays and that he shared some other innocuous information about [REDACTED], the panel did not consider this was inherently over-familiar or inappropriate and is part and parcel of usual conversation between teachers and pupils.

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

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

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

The panel was satisfied that the conduct of Mr Smith in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Smith was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions

- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Smith in relation to the facts found proved, involved breaches of Keeping Children Safe In Education (“KCSIE”). The panel considered that Mr Smith was in breach of his duty to safeguard and promote the welfare of children. Pupil A was a child at the time that the foundations of their relationship were laid and as their contact continued through 2016 and 2017.

The panel was satisfied that the conduct of Mr Smith fell significantly short of the standard of behaviour expected of a teacher.

The panel also considered whether Mr Smith’s conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

The panel found that the offence of sexual communication with a child was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual’s conduct would amount to unacceptable professional conduct.

The panel noted that the allegations largely took place outside the education setting after Mr Smith left the School. Although Mr Smith had left the School to work elsewhere at the end of 2015, his contact with Pupil A continued whilst they remained a pupil of the School and for several years thereafter. The relationship he established with Pupil A included developing emotional co-dependencies upon each other. This was inappropriate given the power imbalance created as a result of his position as a trusted adult. He had not been delegated the task of supporting Pupil A, who was not a pupil he taught, nor in his form group. As an inexperienced (recently qualified) teacher, he did not have the requisite skills to provide the support Pupil A required. Without the safeguards in place that usually support pastoral care provided to students, he put Pupil A at risk of harm. He breached his position of trust.

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

The panel went on to consider the issue of whether Mr Smith was guilty of conduct that may bring the profession into disrepute.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils 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 also considered whether Mr Smith's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice.

As referred to above, the panel found that the offence of sexual communication with a child was relevant.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to conduct that may bring the profession into disrepute.

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.

The panel considered that Mr Smith's conduct could potentially damage the public's perception of a teacher.

The panel therefore found that Mr Smith'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 is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Smith and whether a prohibition order is necessary and proportionate. 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; and the interest of retaining the teacher in the profession.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings that Mr Smith breached his duty to safeguard and promote the welfare of Pupil A.

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

Whilst there is evidence that Mr Smith had ability as an educator, the panel considered that the adverse public interest considerations above outweigh any interest in retaining Mr Smith in the profession, since his behaviour fundamentally breached the standard of conduct expected of a teacher, and he breached his position of trust.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times. The panel noted that a teacher's behaviour that seeks to exploit their position of trust should be viewed very seriously in terms of its potential influence on pupils and be seen as a possible threat to the public interest.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, 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 safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- an abuse of any trust, knowledge, or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil;
- sexual misconduct, for example, involving actions that were sexually motivated or of a sexual nature and/or that use or exploit the trust, knowledge or influence derived from the individual's professional position; and
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE).

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to

continue to teach, the panel went on to consider the mitigation offered by the teacher and whether there were mitigating circumstances.

Mr Smith's actions were deliberate, and the panel has concluded that his actions after Pupil A left the school were sexually motivated.

There was no evidence to suggest that Mr Smith was acting under extreme duress, e.g. a physical threat or significant intimidation.

Whilst there was evidence that Mr Smith was a competent teacher, there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or of having contributed significantly to the education sector.

There was no evidence that Mr Smith was previously subject to disciplinary proceedings/warnings.

In oral evidence, Mr Smith stated that he did everything he could to make sure that students felt safe, encouraged and able to excel in their studies. He stated that he prided himself on being someone who could be relied upon by his colleagues and that he wanted every single one of his students to achieve to the best of their potential. He stated that he "would love nothing more than to be given the chance to restart [his] career that was so very important to [him]." In submissions at the second stage, Mr Smith referred to his experience of ten years of teaching at the time the allegations were made, his subject knowledge, and his excellent relationships with colleagues and pupils. He also referred to the additional role he played in covering classes when others were absent, acting as a mentor for trainee teachers, delivering training to other members of staff and his contribution to revising the School's behaviour policy. He also quoted positive comments from the Student Survey in 2020/2021. Mr Smith also spoke of the improvement in grades of the students he taught.

The panel received two references from former colleagues. It was not clear to the panel whether the referees were aware of the allegations against Mr Smith or the findings of the panel.

One referee referred to Mr Smith as having the best subject knowledge of any teacher that the referee had ever worked with, and Mr Smith's passion for English. This referee stated "his depth of knowledge and analytical mind create an atmosphere of high expectations which raises students' performance at all levels." The reference also referred to Mr Smith as being "a calming presence, remaining relaxed and unflustered at all times" which "in turn reflects in the work rate and attitude of his students, who are focussed and intent on learning." Mr Smith was referred to as "unassuming, a quiet and thoughtful man who listens intently to other people and offers carefully considered input and advice."

Another referee stated that Mr Smith "impressed me with not only his excellent subject knowledge which far surpasses mine, but also his patience when working with students

of all ages and abilities. His quiet confidence and passion knowledge engaged pupils and aided his classroom management as he earned trust and respect easily... above all what I respect the most about Jack is his kindness. On both a professional and personal level, I find Jack is incredibly empathetic and he never struggles to offer measured, supportive advice. Jack displays a high level of integrity at all times.”

The panel noted that Mr Smith co-operated with Ashby School’s investigation having attended three interviews and the disciplinary hearing. He co-operated with the present misconduct proceedings, having attended each of the hearing days. Whilst a representative on behalf of Mr Smith asked questions of Pupil A, the questions were not an attack on Pupil A’s character, but instead, whether they could have been mistaken given the situation in [REDACTED].

Despite denying the allegations, Mr Smith did accept there were aspects of his behaviour that were not the right thing to do, and that he could have done differently. For example, he accepted that he should not have turned to Pupil A for emotional support; he recognised that he should not have engaged with Pupil A in the way he did; that he should not have met up with Pupil A; that he made an error of judgment in not reflecting on his relationship with Pupil A having become aware of [REDACTED]; and that he should not have maintained contact with Pupil A at all.

However, the panel was concerned as to the depth of Mr Smith’s insight. Whilst Mr Smith stated that he understood he had let people down, and was deeply sorry, no remorse was expressed demonstrating an appreciation of the impact on Pupil A, nor did he say anything that suggested he recognised the consequences for Pupil A of their emotional co-dependence.

Mr Smith expressed shame in oral evidence that he was no longer a teacher or “able to participate in the career that [he] love[s]”. He referred to being a “shell of the person” he once was, and stated “I have been trying to unsuccessfully put by life together since then, but there is a gaping hole where the vocation that I love so much used to be. I would never repeat the mistakes that I have made.” Whilst the panel had that assurance, given the concerns as to the level of Mr Smith’s insight, the panel was not able to conclude that Mr Smith was equipped to ensure this.

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 noted that these proceedings have taken some time to conclude, and the panel has taken this into account when considering whether prohibition would appear more punitive to Mr Smith.

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 Smith of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Smith. Engaging in sexually motivated contact with Pupil A and developing emotional co-dependencies with them after he was a teacher was inappropriate given the power imbalance created as a result of his position as a trusted adult. 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 cases involving certain conduct where it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. These cases 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 his professional position to influence or exploit a person or persons; and any sexual misconduct involving a child. Having regard to the possible spectrum of sexual misconduct, the panel considered this case to be at the lower end, given that no physical sexual activity took place. However, Mr Smith's actions were sexually motivated, Mr Smith did use his professional position to develop the relationship which had the potential to result in harm to Pupil A.

The panel was concerned that Mr Smith had not shown sufficient insight as to why his actions were wrong, and what the impact his actions had on Pupil A to be satisfied that a review period was appropriate.

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

Decision and reasons on behalf of the Secretary of State

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

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

In this case, the panel has found 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 allegation 1 c. I have therefore put those matters entirely from my mind.

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

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

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Smith, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

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

The findings of misconduct are particularly serious as they include a finding of sexual motivated conduct involving Pupil A.

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 Smith, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children/safeguard pupils. The panel has observed, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings that Mr Smith breached his duty to safeguard and promote the welfare of Pupil A." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight and remorse, which the panel sets out as follows, "the panel was concerned as to the depth of Mr Smith's insight. Whilst Mr Smith stated that he understood he had let people down, and was deeply sorry, no remorse was expressed demonstrating an appreciation of the impact on Pupil A, nor did he say anything that suggested he recognised the consequences for Pupil A of their emotional co-dependence." 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 observe, "the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Smith were not treated with the utmost seriousness when regulating the conduct of the profession." I am particularly mindful of the finding of sexual motivated conduct 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 and conduct likely to bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Smith himself and the panel comment "Whilst there was evidence that Mr Smith was a competent teacher, there was no evidence that he had demonstrated exceptionally high standards in both his personal and professional conduct or of having contributed significantly to the education sector."

A prohibition order would prevent Mr Smith 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 concerning the level of insight or remorse. The panel has said, "Mr Smith expressed shame in oral evidence that he was no longer a teacher or "able to participate in the career that [he] love[s]". He referred to being a "shell of the person" he once was, and stated "I have been trying to unsuccessfully put by life together since then, but there is a gaping hole where the vocation that I love so much used to be. I would never repeat the mistakes that I have made." Whilst the panel had that assurance, given the concerns as to the level of Mr Smith's insight, the panel was not able to conclude that Mr Smith was equipped to ensure this."

I have also placed considerable weight on the finding that "The panel decided that the public interest considerations outweighed the interests of Mr Smith. Engaging in sexually motivated contact with Pupil A and developing emotional co-dependencies with them after he was a teacher was inappropriate given the power imbalance created as a result of his position as a trusted adult."

I have given considerable weight to the following finding "Mr Smith's actions were deliberate, and the panel has concluded that his actions after Pupil A left the school were sexually motivated."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Smith 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 or remorse, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

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

I have considered the panel's comments "The panel was concerned that Mr Smith had not shown sufficient insight as to why his actions were wrong, and what the impact his actions had on Pupil A to be satisfied that a review period was appropriate."

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

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

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line underneath the first few letters.

Decision maker: Sarah Buxcey

Date: 5 February 2025

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