



Teaching
Regulation
Agency

Mr Austin Murphy: Professional conduct panel outcome

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

January 2023

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

Teacher:	Mr Austin Murphy
Teacher ref number:	9938262
Teacher date of birth:	21 April 1976
TRA reference:	18440
Date of determination:	12 January 2023
Former employer:	First for Education

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 9 to 12 January 2023 by way of a virtual hearing, to consider the case of Mr Austin Murphy.

The panel members were Ms Mona Sood (lay panellist – in the chair), Mr Terry Hyde (former teacher panellist) and Ms Jane Gotschel (teacher panellist).

The legal adviser to the panel was Ms Samantha Cass of Birketts LLP solicitors.

The presenting officer for the TRA was Ms Matilda Heselton of Browne Jacobson LLP solicitors.

Mr Murphy was present and was not represented.

The hearing took place by way of a virtual hearing in private and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 28 October 2022 and the application to amend the allegations, as detailed below, which was submitted on the first day of the hearing but dated 6 January 2023. The application to amend the allegations was granted and the amended allegations are as set out below.

It was alleged that Mr Murphy was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst employed and/or engaged as a teacher between 2017 and 2019 he:

1. Engaged in inappropriate behaviour with Child A in that he:
 - a) Sent inappropriate messages to Child A to the effect of:
 - i. 'I may have fucked you up'; and
 - ii. 'I got you the pen knife to cut yourself'
 - b) Sent an occasion card to Child A, the contents of which was inappropriate, including in that he:
 - i. Referred to himself as Child A's future husband and the mother of his children
 - c) He stroked Child A's leg in a way which made her feel uncomfortable.

Mr Murphy admitted the facts of allegations 1(a) and (b), however in his initial Notice of Response (submitted to the panel on 6 January 2023) he denied that those admitted facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Mr Murphy denied allegation 1(c).

Preliminary applications

There were the following preliminary applications:

Request for Mr Murphy to be accompanied by a witness supporter

The panel considered a request by Mr Murphy, although not made by way of a formal preliminary application from Mr Murphy, on the day of the hearing to be accompanied by a witness supporter, namely, Individual G throughout the hearing. The panel noted that Mr Murphy was unrepresented and therefore was unlikely to be familiar with the hearing processes.

The panel considered the need to be balanced to both parties and the fact that Mr Murphy was unrepresented. The presenting officer did not object to Mr Murphy having a witness support, although the panel noted that he had also provided a character reference as part of the bundle.

The panel therefore granted Mr Murphy's request to have Individual G present in support throughout the hearing but clarified that the purpose of this support was not for the purposes of advocacy.

Application for the hearing to be heard in private

The panel considered an application from the presenting officer made on the first day of the hearing but dated 6 January 2023 that the hearing should be heard in private.

The panel heard submissions from the presenting officer on the application before reaching its decision. There were no objections to the application from Mr Murphy.

The panel considered that there was a need to protect the interests of Child A [REDACTED] as far as possible and there was not a sufficient contrary public interest in hearing the matter in public. The panel therefore granted the application.

Application to amend the allegations

The presenting officer made an application to amend the allegations as set out above. This application was provided by the presenting officer on the first day of the hearing but was dated 6 January 2023.

The panel noted that Mr Murphy had been informed of the proposed changes to the allegations on 6 January 2023 and queried why the application had come to the attention of the panel on the morning of the hearing. The presenting officer confirmed that she had only recently been instructed to this matter, which had previously been dealt with by a colleague. Mr Murphy confirmed that he did not object to the amended allegations.

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

The panel considered that the proposed amendments would not change the nature and scope of the allegations in that the allegations would, as amended, still be within the same parameters. As such, the panel considered that the proposed amendments did not amount to a material change to the allegations.

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

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

Special measures application

At the start of the hearing, the panel considered an application from the presenting officer which was made on day one of the hearing but dated 6 January 2023. The presenting officer made an application requesting special measures on behalf of a witness, Witness D. The application seeks that Witness D be treated as a vulnerable witness and that:

- She be accompanied by a witness supporter, namely [REDACTED], whilst giving evidence;
- She would not have sight of Mr Murphy which was to be achieved by Mr Murphy turning off his camera whilst Witness D joined the hearing, and her then covering Mr Murphy on her screen whilst Mr Murphy's camera remained off. The camera was then to be switched back on when Witness D was satisfied that she couldn't see Mr Murphy;
- Mr Murphy be denied the opportunity to ask Witness D questions directly and for Mr Murphy's questions to be asked by another appropriate person.

The application stated that, as the allegations involved Mr Murphy and Child A, the proposed special measures were appropriate and would still allow the opportunity to test the evidence with no or limited prejudice to Mr Murphy. The presenting officer relied upon paragraph 4.71 and 4.72 of the Procedures under which the panel may adopt such measures as it considers appropriate in order to safeguard the interests of a child or vulnerable witness which may include the use of a video link, the use of an intermediary, the hearing of evidence by the panel in private and the attendance of a witness supporter.

The presenting officer also relied upon paragraph 4.57 of the Procedures under which the panel may exclude the public from a hearing.

The presenting officer submitted that the special measures are likely to make the process easier for Witness D, particularly as she may feel intimidated by Mr Murphy due to the nature of the allegations, and ensure that she is able to give the best evidence by making her feel comfortable and enabling her to communicate more effectively.

Application to admit additional documents

The panel considered a request although not made by way of a formal preliminary application from Mr Murphy on the day of the hearing to admit an additional document, namely the Notice of Hearing dated 6 January 2023.

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 in respect of the request to include an additional document from the teacher confirming that the Notice of Hearing document had been submitted in June 2022 but had been lost and therefore had had to be resubmitted.

The panel considered the additional documents were relevant. 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 'Teacher misconduct: Disciplinary procedures for the teaching profession' updated in April 2018 (the 'April 2018 Procedures') 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 had received no representations 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.

Summary of evidence

Documents

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

- Section 1: Anonymised pupil list – page 5
- Section 2: Notice of hearing and response – pages 7 to 30
- Section 3: TRA witness statements – pages 32 to 95
- Section 4: TRA documents – pages 97 to 146
- Section 5: Teacher documents (investigation stage) – pages 148 to 153

In addition, the panel agreed to accept the following:

- The Notice of Response dated 6 January 2023.

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:

- Witness A – [REDACTED]
- Witness B – [REDACTED]
- Witness C – [REDACTED]
- Witness D – [REDACTED]

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 Murphy registered with First for Education in May 2017. Upon completing his registration on 18 May 2017, he began his first period of employment on 22 September 2017. Mr Murphy was working at Redhill School, via First for Education, at the time the allegations were raised.

In April 2019, whilst Child A was away on a school trip, Witness D had found a number of occasion cards which were from Mr Murphy. On Child A's return from the school trip, Witness D, questioned Child A about the cards who subsequently showed Witness D a message exchange between Child A and Mr Murphy. Witness D also became aware that Mr Murphy had been contacting Child A via social media, (Facebook), without her knowledge. These messages were making Child A feel extremely anxious and upset. Consequently, Witness D contacted Child A's school, [REDACTED] ('the School'), to report her concerns.

The School made a referral to Children's Social Care the same day who subsequently made a referral to Dudley LADO on 24 May 2019.

A Position of Trust ('POT') meeting was held on 12 June 2019. A second POT meeting was held on 25 September 2019. It was noted in the POT meeting that [REDACTED] had made her own separate disclosure.

On 17 November 2019 Child A was interviewed by the police but, as there was no evidence, the matter was closed by the police.

Findings of fact

The findings of fact are as follows:

1. Engaged in inappropriate behaviour with Child A in that you:

a) Sent inappropriate messages to Child A to the effect of:

- i. 'I may have fucked you up'; and**
- ii. 'I got you the pen knife to cut yourself'**

The panel noted Mr Murphy's response at the investigation stage, as outlined in his email dated 23 February 2021. Mr Murphy stated that the term 'fucked up' is the vernacular within which he communicated with Child A and with which many teenagers refer to their mental state, behaviours and experiences. When asked about Child A's vulnerable state and known self-harming, Mr Murphy did eventually accept that his behaviour had had a negative impact on Child A. Mr Murphy believed that a few text messages did not present a picture of what was said either before or after because, this had been part of a longer conversation.

In Mr Murphy's written evidence he asserted that witness D had said that he had given her a knife to cut herself. He claimed that this remark was a sarcastic response to that assertion. On questioning, Mr Murphy stated that the comment at allegation 1(a)(ii) was written as a postscript. Mr Murphy reiterated that this comment was a sarcastic response made ironically and the response was in the vein of "don't say I never give you anything."

The panel noted Mr Murphy's oral evidence within which he recognised that he had sent the message and it was only on being questioned that Mr Murphy could accept that the content was inappropriate. The panel considered that Mr Murphy had bought the knife as a gift at Christmas 2016 which was two years prior to him becoming aware of Child A's [REDACTED]. The panel noted that Mr Murphy had admitted to sending an inappropriate message to Child A regarding the use of the pen knife and that this was a child who was particularly vulnerable of whom he was aware had been [REDACTED] for several years.

Witness D found the messages shortly after 21 April 2019 and described her reaction to the messages as making her feel "sick to her stomach, appalled and horrified".

The panel found allegations 1(a)(i) and 1(a)(ii) proven.

b) Sent an occasion card to Child A, the contents of which was inappropriate, in that you:

- i. Referred to yourself as Child A's future husband and the mother of your children**

The panel noted images of the cards and messages sent by Mr Murphy, submitted as part of the bundle.

Mr Murphy explained that he had purchased 5 random occasion cards - said to be the last lying in a box - from a charity shop on impulse. He had previously described his relationship with Child A and the television entertainment that they would enjoy together. The language that they used with each other reflected that within those programmes as demonstrated by Child A's spelling of the word "[REDACTED]" for Mr Murphy in her mobile telephone. Mr Murphy stated that his intention had been to send Child A a greeting in accordance with the message on the card from five different people who had written to Child A from the future. Mr Murphy accepted that the language was colourful and at times inappropriate. Mr Murphy stated that, within context, the closeness and dynamic of their relationship is subject to having knowledge of their history. In addition, some of the comments related to examples from popular culture at the time such as the IT Crowd, the Inbetweeners, Family Guy and American Dad.

The panel noted Mr Murphy's oral evidence within which he explained that the occasion card along with the other cards in the bundle were intended to be a joke, the humour around which he understood was appreciated at the time and further evidenced by the fact that Child A chose to keep the cards. Although, Mr Murphy did accept that it was him who sent the cards to Child A and that the content could be viewed by an outsider as inappropriate, he confirmed that he did not intend for there to be any [REDACTED] nature to the wording used.

The panel considered Mr Murphy's oral evidence that this was one of a number of cards which was part of an ongoing private [REDACTED] joke. Although the panel considered that the content was inappropriate, it did not find that Mr Murphy was intending to reference himself as Child A's future husband and the mother of his children but instead this was supposed to be a reference to a fictional character of the future using fictitious names for both the husband and the future children. The panel considered that the language used in this card was consistent with the language used in the other cards in the bundle and were satisfied that this was a poor judgment of humour reflective of his overly "matey" relationship with Child A at the time.

The panel noted the witness statement and oral evidence of Witness D.

In respect of allegation 1(b)(i), Witness D submitted that she first found out about the greeting cards Mr Murphy sent to Child A during Easter 2019. Witness D was in the process of moving to a new house and Child A was on a school trip [REDACTED]. Witness D found the cards hidden under a pile of clothes on a chair in her room; this was the first time that Witness D had seen the cards. Witness D stated that she felt shocked and horrified by the messages inside. Upon Child A's return, Witness D questioned her about the cards, which is when Child A showed Witness D the messages referred to at allegations 1(a)(i)-(ii) on her phone.

In Witness D's oral evidence she described her reaction to the content of the cards as making her feel "shocked and disturbed." The panel recognised that, taken in isolation,

the content of this card could give rise to significant disquiet. The panel found that the content of this card was consistent in nature and tone with the other four cards included within the bundle and that Mr Murphy's explanation for this particular occasion card was in keeping with the others.

The panel therefore found allegation 1(b) not proven.

c) On or around 25th September 2019 you stroked Child A's leg in a way which made her feel uncomfortable.

The panel considered the LADO management of allegation minutes in which it was noted that Child A shared that both she and [REDACTED] had said that Mr Murphy had in the past stroked their legs and that they had felt uncomfortable by it.

Mr Murphy wholly refuted allegation 1(c).

The panel considered Mr Murphy's oral evidence that there had been no case to answer by way of the police investigation. The panel noted that Child A had disclosed this fact to a stranger who was a professional and that [REDACTED] had also independently raised a similar allegation. On questioning Witness D, it transpired that [REDACTED] was aware of the allegation made by Child A.

During the course of the hearing, the panel had heard a number of conflicting explanations from Mr Murphy which could not be substantiated by fact, for example:

- Misinforming his previous employer that the TRA investigation had been dropped on the basis that he had not received any information from the TRA;
- Stating that the "claim had been retracted" on being told by Social Services that the case had been closed; and
- Stating that he was still [REDACTED] Witness D despite Witness D having stated that [REDACTED] which remained a matter of difference.

Whilst Mr Murphy was candid in regard to his cocaine addiction and alcohol abuse, the evidence he gave in regard to allegation 1c) was not wholly persuasive. He could offer no plausible explanation as to why Child A would make such a disclosure to a stranger albeit a professional. Notwithstanding the panel's recognition that matters relating to Child A's sibling do not form part of the allegations against Mr Murphy, these do nonetheless mirror and add context to the stroking of the leg that Child A has disclosed. When questioned about the matters relating to Child A's [REDACTED], Mr Murphy's response was dismissive of her characterising it as "mimicking attention seeking behaviour".

The panel further noted that [REDACTED] had described Mr Murphy as exhibiting "creepy" behaviour and had described him to Children's Services previously as "pervy".

[REDACTED] reported not feeling “safe” as a result of [REDACTED] drug and alcohol use. Furthermore, by his own acknowledgement, Mr Murphy accepted that he was becoming increasingly dependent on cocaine and was living a chaotic lifestyle. This gave the panel cause to doubt his recollection of his behaviour whilst under the influence of cocaine. In the absence of any cogent explanation the panel found it more likely than not that Mr Murphy had stroked Child A’s leg in a way which made her feel uncomfortable.

The panel therefore found allegation 1c) proven.

The panel found allegations 1(a)(i)-(ii) and 1(c) proven and allegation 1(b)(i) not proven.

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 Murphy, in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Murphy 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; and
 - having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions.
- 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 Murphy amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

The panel found that Mr Murphy’s account of his cocaine dependency and casual usage over a considerable period of time preceding his cocaine addiction was concerning and relevant in this context.

The Advice indicates that where behaviours associated with possession of Class A drugs (including for personal use) exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that the allegations took place outside the education setting in that Mr Murphy's conduct was towards [REDACTED], outside of school and school hours. However, the panel believed that this is directly relevant to Mr Murphy's profession as a teacher, given the nature of his job especially taking into account his influential role as a teacher.

The panel noted that Mr Murphy's behaviour was harmful to Child A who was a vulnerable child and, although Mr Murphy had attributed much of his behaviour to his addiction to narcotics and alcohol and to an acrimonious relationship between himself, his [REDACTED] at the time, he had displayed harmful behaviours which touched upon his profession as a teacher. This was evidenced by the representative from Mr Murphy's supply agency who stated that an unusually high number of schools had requested that he did not return to teach.

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 that Mr Murphy was, at times, equivocal in his acceptance of the responsibility that he had towards the harm that he had caused to Child A as a result of his behaviour often linking this to the particularly strained relationship with [REDACTED].

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 Murphy's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a)(i), 1(a)(ii) and 1(c) proved, the panel further found that Mr Murphy's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

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

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

The panel were 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 the light of the panel's findings against Mr Murphy, which involved inappropriate comments towards [REDACTED] and stroking [REDACTED] leg in a way which made her feel uncomfortable, there was a strong public interest consideration in respect of the protection of pupils. Although not part of the allegations against Mr Murphy, the panel was highly conscious that Child A and/or her sibling had described Mr Murphy as being "pervy" and exhibiting "creepy" behaviour.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Murphy. 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 Murphy. 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;
- abuse of position or trust (particularly involving pupils);
- dishonesty or a lack of integrity.

Even though 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 Murphy's actions were not deliberate although the panel did note that some of Mr Murphy's actions were likely to be while he was under the influence of drugs and/or alcohol. However, the panel did not consider this to be a sufficient mitigating factor to his conduct given that this is a clear breach of the Teachers' Standards. The panel also noted that Mr Murphy had, according to witness evidence, only 18 months before the hearing commenced, sought to obtain a reference by requesting that this did not mention the ongoing TRA matter.

There was no evidence to suggest that Mr Murphy was acting under extreme duress, and, in fact, the panel found Mr Murphy's actions in relation to the allegations to be deliberate and to an extent disingenuous.

Limited evidence was submitted to attest to Mr Murphy's history or ability as a teacher which the panel noted was most likely due to a significant period of time within which Mr Murphy was a supply teacher. However, the panel noted that there had been an unusually high number of schools who had requested that Mr Murphy did not return after a period of supply teaching within their settings. The panel noted that no evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mr Murphy had contributed significantly to the education sector.

The panel noted 3 character references submitted on Mr Murphy's behalf. In particular, the panel noted the following comments:

- Individual G, [REDACTED]:
 - *"He has demonstrated a tenacity, determination and endurance that has underlined his sincere and focused desire to return to teaching."*
 - *"It has become clear from my weekly conversations and time with Austin that his capability and flair within the classroom is his gifting, and indeed a calling that has helped drive him through the months of waiting and the regular emotional turmoil connected with mentally processing all that he lost as a result of [REDACTED] and substance abuse."*

- Witness E, M.B.E and retired [REDACTED]:
 - *“Austin has been a valuable member of our church for the last 2 years and has been very reliable in supporting people in need. He has helped with Open Lunches and also been involved in providing meals for the homeless at Christmas. Personally I have found him very caring and I have benefitted from his support as I have had two cataract operations over the lockdown period and Austin has been very supportive to me on a regular basis.”*
- Witness F, tutor at [REDACTED]:
 - *“It was very clear straight away that Austin had a natural aptitude for wanting to help others.”*
 - *“Austin presented himself and his own life experience in a way that enabled others to open up and share about themselves. He also showed a good sense of humour that he was able to utilise to put people at ease in an appropriate manner.”*
 - *“I would highly recommend Austin’s skills in any educational capacity and feel he would be an asset to any teaching and support role he applied for.”*

The panel was not clear whether Witness F had provided the reference specifically for the purpose of the hearing. Mr Murphy confirmed that she had provided it for that purpose.

The panel noted the undated testimonial provided by Mr Murphy, which stated that, at the time of writing, he had spent nearly 4 months in Rehab. Whilst there, he attended 4 to 5 Narcotics Anonymous (‘NA’) and Alcoholics Anonymous (‘AA’) meetings each week plus partook in ‘service’, i.e. helping out at meetings and within the NA fellowship. Mr Murphy gained a sponsor, started work on the 12 step NA programme and joined his local church. Mr Murphy also began weekly meditation sessions at his local Buddhist centre.

Over the preceding 2 years, Mr Murphy had 18 months of total abstinence. Mr Murphy had also completed several charity events, had 2 jobs, had become debt free and was surrounded by a network of supportive and reputable people. The panel understood that the recovery journey is a challenging one and will have not been easy to undertake, and at the time of the hearing Mr Murphy had been free of drugs for more than three years. Mr Murphy had been quite candid about his usage and indeed had posted his story within the public domain.

The panel noted Mr Murphy’s oral evidence as to his mitigation and comments on sanction. Whilst they considered his desire to work with young people and help rehabilitate those who have been impacted by addiction admirable, they considered that there were outlets other than the teaching profession where his skills would be more

advantageous. Overall the panel found Mr Murphy's previous behaviour including his casual approach to drug use and his ongoing journey to recovery from a serious drug addiction to be incompatible with the role of a teacher, especially given the potential for a relapse in the future and the consequent harm to children.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Murphy 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 Murphy. Whilst the panel did appreciate that Mr Murphy had shown a certain degree of insight and remorse for his actions, they noted that Mr Murphy still had a way to go in terms of fully appreciating the ongoing harmful impact that his behaviour continued to have on Child A. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period and that the list of behaviours in the Advice is not exhaustive. The panel noted the nature of drug and alcohol addiction and the lifetime challenges that Mr Murphy will face with regards to recovery and rehabilitation and the enduring risk of relapse. The panel found that Mr Murphy had engaged in inappropriate behaviour towards Child A which had, and continued to have, a harmful impact on Child A's wellbeing. The panel also found that Mr Murphy was responsible for stroking Child A's leg in a way which made her feel uncomfortable, which he denied. This, however, did not influence the severity of the sanction applied by the panel but did indicate that there remains a gap in Mr Murphy's insight. Although the panel was not aware of Mr Murphy having been charged with possession (including for personal use) of any class A drug, he did readily admit to this in his oral evidence and to the gravity of his drug and alcohol use over a period of time. The panel had to therefore consider Mr Murphy's case on its own merits taking into account all the circumstances involved.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. However, the panel found that Mr Murphy was not responsible for any such behaviours.

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 provisions for a review period.

Decision and reasons on behalf of the Secretary of State

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

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

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

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

In particular, the panel has found that Mr Murphy 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; and
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was also, "satisfied that the conduct of Mr Murphy amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession."

The findings of misconduct are particularly serious as they involve, “inappropriate behaviour towards Child A which had, and continued to have, a harmful impact on Child A’s wellbeing.”

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Murphy, 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, “Mr Murphy’s behaviour was harmful to Child A who was a vulnerable child.” 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, “Whilst the panel did appreciate that Mr Murphy had shown a certain degree of insight and remorse for his actions, they noted that Mr Murphy still had a way to go in terms of fully appreciating the ongoing harmful impact that his behaviour continued to have on Child A.” In my judgement, the lack of full insight and remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “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 that Mr Murphy was, at times, equivocal in his acceptance of the responsibility that he had towards the harm that he had caused to Child A as a result of his behaviour.” I am particularly mindful of the finding of “inappropriate behaviour” 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, 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 Murphy himself. The panel comment “Limited evidence was submitted to attest to Mr Murphy’s history or ability as a teacher which the panel noted was most likely due to a significant period of time within which Mr Murphy was a supply teacher. However, the panel noted that there had been an unusually high number of schools who had requested that Mr Murphy did not return after a period of supply teaching within their settings. The panel noted that no evidence was submitted which demonstrated exceptionally high standards in both personal and professional conduct or that Mr Murphy had contributed significantly to the education sector.”

A prohibition order would prevent Mr Murphy from teaching and 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 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 Murphy. Whilst the panel did appreciate that Mr Murphy had shown a certain degree of insight and remorse for his actions, they noted that Mr Murphy still had a way to go in terms of fully appreciating the ongoing harmful impact that his behaviour continued to have on Child A.”

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

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

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

I have considered the panel’s comments “The panel found that Mr Murphy had engaged in inappropriate behaviour towards Child A which had, and continued to have, a harmful impact on Child A’s wellbeing.”

I have considered whether not allowing for a review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, the factors which mean that allowing for no review is necessary are the nature of the behaviour and the lack of full insight and remorse.

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

This means that Mr Austin Murphy 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 Austin Murphy 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 Austin Murphy 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 blue ink, appearing to read 'Alan Meyrick', with a vertical line at the end.

Decision maker: Alan Meyrick

Date: 16 January 2023

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