



National College for  
Teaching & Leadership

# **Emma Jane Harfield: Professional Conduct Panel outcome**

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

**January 2014**

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## **Professional Conduct Panel decision and recommendations, and decision on behalf of the Secretary of State**

<b>Teacher:</b>	Ms Emma Jane Harfield
<b>Teacher ref no:</b>	06/63241
<b>Teacher date of birth:</b>	4 September 1984
<b>NCTL Case ref no:</b>	009809
<b>Date of Determination:</b>	7 January 2014
<b>Former employer:</b>	Mayfield Secondary School

### **A. Introduction**

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 6 and 7 January 2014 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Ms Emma Jane Harfield.

The Panel members were Mr John Elliott (Lay Panellist – in the Chair), Ms Gail Goodman (Teacher Panellist) and Mr Tony Woodward (Former Teacher Panellist).

The Legal Adviser to the Panel was Isabelle Mitchell of Eversheds Solicitors.

The Presenting Officer for the National College was Lucy Alicea of Kingsley Knapley Solicitors.

Ms Emma Jane Harfield was not present and was not represented.

The hearing took place in public and was recorded.

## **B. Allegations**

The Panel considered the allegations set out in the Notice of Proceedings dated 3 September 2013.

It was alleged that Ms Emma Jane Harfield was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that Ms Harfield:

1. Maintained an inappropriate relationship with Pupils A and/or B between around 2010 and 2011, which included:-
  - a. Making contact with Pupil A by telephone, text messages and Skype;
  - b. Continuing to send Pupil A text messages after being asked to desist by the adult in charge of Pupil A that day;
  - c. Spending time with Pupil A and/or Pupil B at her home outside of school hours;
  - d. Staying overnight at her home and/or the home of Pupil A's cousin, with Pupil A;
  - e. Sharing a bed with Pupil A and/or Pupil B;
  - f. Paying Pupil B to clean her house;
  - g. Buying gifts for Pupil A and/or Pupil B.
2. Failed to follow management advice in respect of allowing pupils into her classroom during break and lunchtimes.

Although absent from the hearing, Ms Harfield indicated in her response to the Notice of Proceedings that she admitted the facts and she admitted that those facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

## **C. Preliminary applications**

### Proceeding in the absence of the teacher

The Panel considered an application from the Presenting Officer to proceed in the absence of Ms Harfield. The Presenting Officer referred to the Notice of Proceedings at pages 7 to 9 of the case papers, which were sent to Ms Harfield, care of her NUT representative, on 3 September 2013. The Presenting Officer submitted that the Notice of Proceedings contained the information required by the Regulations and had been sent to Ms Harfield at least eight weeks before the hearing date. The Presenting Officer also referred the Panel to the Notice of Proceedings Response Form, contained at pages 10 to 12 of the case papers, which had been completed by Ms Harfield and confirms that Ms Harfield received the Notice of Proceedings.

The Presenting Officer submitted that Ms Harfield has voluntarily waived her right to appear. The Presenting Officer relied on the following documents:

- The Notice of Proceedings Response Form (pages 10 to 12 of the case papers), completed by Ms Harfield, in which Ms Harfield stated that she did not intend to appear at the hearing.
- A letter from Ms Harfield's parents dated 8 November 2013 (pages 13 to 15 of the case papers), which stated that "neither Mr Ginnelly (NUT) or Emma will attend the hearing". The Presenting Officer highlighted the fact that this statement was contradicted at page 15 of the letter where it states "Please note, Emma Jane Harfield or Patrick Ginnelly (NUT) will be attending the panel meeting at Coventry". The Presenting Officer submitted that this was likely to be a typographical error. However, the National College sought clarification by writing again to Ms Harfield on 2 December 2013 (page 131 of the case papers) to confirm that she did not intend to attend the hearing. Ms Harfield's father responded to this letter (page 133 of the case papers) confirming that Ms Harfield would not be attending and would not be represented.

The Presenting Officer submitted it is clear that Ms Harfield knows the hearing is going ahead this week and has made a decision not to attend and does not wish to be represented. The Presenting Officer also highlighted that Ms Harfield had not asked for an adjournment of the hearing.

The Presenting Officer submitted that there would be minimal prejudice caused to Ms Harfield if the hearing was to proceed in her absence, as Ms Harfield has admitted the allegations (pages 13 and 135 of the case papers).

The Presenting Officer also made reference to the public interest in proceeding today, including the interests of those three witnesses in attendance, and asked the Panel to consider the witnesses' interests when exercising their discretion as to whether to proceed. Further, the Presenting Officer submitted that delay would not be desirable given the passage of time from the events being considered.

The Legal Adviser gave the Panel advice including referring to relevant case law, and the Panel adjourned to consider its decision.

The Panel reconvened and announced its decision and reasons for that decision as follows:-

"We are asked to consider proceeding with this case in the absence of the teacher, Ms Emma Jane Harfield.

We have been advised by the Presenting Officer that the Notice of Proceedings was sent to Ms Harfield on 3 September 2013. It is exhibited at pages 7 to 9 of the case papers. We have viewed the Notice of Proceedings and are satisfied that it contains the information required under paragraph 4.10 of the Teacher Misconduct Disciplinary Procedures for the Regulation of the Teaching Profession, which we refer to as the

'Procedures'. We are also satisfied that the Notice of Proceedings has been served in accordance with the service requirements at Regulation 19 of the Teachers' Disciplinary (England) Regulations 2012, including serving the Notice of Proceedings with at least eight weeks' notice of the hearing.

We are therefore advised that we have discretion to proceed in Ms Harfield's absence in accordance with paragraph 4.26 of the Procedures.

In exercising this discretion we understand that we must proceed with great care and caution and with close regard to the overall fairness of the proceedings. Fairness to Ms Harfield is of prime importance, but fairness to the National College and the requirement for proper regulation of the profession should also be taken into account.

We have also been advised to have regard to the guidance given in the cases of R v Jones and Tait v Royal College of Veterinary Surgeons.

The case law provides a check list against which we must test our reasoning. We have considered the following to be relevant:-

- The nature and circumstances of Ms Harfield's behaviour in absenting herself from today's hearing. We note that Ms Harfield has responded to the Notice of Proceedings by completing and returning the relevant response form, exhibited at pages 10 to 12 of the case papers. We have also reviewed the documents referred to by the Presenting Officer, which confirm that Ms Harfield does not intend to attend and does not wish to be represented at the hearing. We have also had regard to the report in the case papers (pages 137 to 139), which confirms that Ms Harfield is fit to attend the hearing, has capacity to plead and instruct a representative, and give evidence at a hearing. On the basis of these documents, we consider that Ms Harfield has made a clear and unqualified statement that she has voluntarily absented herself from today's hearing;
- Whether or not an adjournment might result in Ms Harfield attending voluntarily or whether Ms Harfield, although absent, wishes to be represented. We note that Ms Harfield has not requested an adjournment, has stated that she does not wish to be represented and has deliberately chosen not to attend today. On the basis of the case papers, we consider that it is unlikely that Ms Harfield would attend on an alternative date;
- The seriousness of the case against Ms Harfield and the risk of reaching the wrong conclusion in her absence today. The case against Ms Harfield is serious and there will be a disadvantage caused to Ms Harfield as a result of her not being present. However, we consider that the prejudice caused to Ms Harfield will be low, as Ms Harfield has admitted the facts of the case; and
- The general public interest and the particular interests of the witnesses attending today that a hearing should take place within a reasonable time of the events to which it relates. We consider that the interest of the witnesses and the public would not best

be served if the hearing was adjourned and the witnesses were asked to come back on a later date. We are particularly mindful of the fact that the events relevant to the case took place almost three years ago.

On that basis, we are satisfied that Ms Harfield has voluntarily absented herself from today, does not wish to be represented and she is not asking for an adjournment. We conclude that Ms Harfield has no intention of attending the hearing and has waived her right to be present. We have therefore decided to proceed with the hearing today. We consider it is in the public interest that the case should not be delayed.

In making this decision we have every intention of exercising caution and care in examining the evidence adduced by the National College and the absent teacher in relation to this allegation.”

## **D. Summary of evidence**

### **Documents**

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

Section 1: Chronology and Anonymised Pupil List (Pages 2 to 5)

Section 2: Notice of Proceedings and Response (Pages 7 to 15)

Section 3: National College Witness Statements (Pages 9 to 37)

Section 4: National College Documents (Pages 39 to 93)

Section 5: Teacher Documents (Pages 95 to 139)

The Panel Members confirmed that they had read all of the documents in advance of the hearing.

### **Witnesses**

The Presenting Officer made an opening statement.

The Presenting officer called Pupil A to give oral evidence, such evidence being given by video-link. The Panel heard evidence from Pupil A concerning the alleged inappropriate relationship between Pupil A and Ms Harfield and the extent and frequency of their contact.

The Presenting Officer called Witness A. The Panel heard evidence from Witness A concerning the meeting that took place between Ms Harfield, Witness B and Witness A regarding concerns related to Ms Harfield spending time with children outside lesson

hours, including at lunch and break times. Witness A also gave evidence concerning the interviews conducted by police and her own disciplinary investigation.

The Presenting Officer called Witness B. Ms Harfield having been a history teacher. Witness B was also Ms Harfield's Line Manager and her subject mentor. Witness B gave evidence about the concerns she had in relation to Ms Harfield spending time with children outside lesson hours, including at lunch and break times, and gave evidence about the occasions when she had raised these concerns with Ms Harfield.

The Presenting Officer relied on the written witness statement of Pupil B.

The Presenting Officer made a closing statement.

## **E. Decision and reasons**

The Panel announced its decision and reasons as follows:

We have now carefully considered the case before us and have reached a decision.

We confirm that we have read all the documents provided in the bundle in advance of the hearing.

### Summary of Evidence

Ms Emma Jane Harfield was employed as a History Teacher at Mayfield Secondary School from 1 July 2007, when she was employed as a newly qualified teacher.

Some time in 2008 / 2009, Ms Harfield's Line Manager, Witness B, became concerned that Ms Harfield had students in her classroom during break and lunch times. Witness B raised this informally with Ms Harfield at the time. Witness B raised this again as an issue during a meeting with Ms Harfield in March 2011 when Witness A, was also present. On this occasion, Witness B and Witness A offered Ms Harfield advice on an informal basis, saying that she should discourage the students from spending time in her classroom and allow herself a break with other colleagues.

It is alleged that during 2010 and early 2011, Ms Harfield maintained an inappropriate relationship with two particular students, Pupils A and B. In regard to Pupil B, it is alleged that during the relevant period Ms Harfield paid Pupil B to clean her house and bought him an iPod and a Blackberry as gifts. It is also alleged that Pupil B visited Ms Harfield's home after school on a number of occasions and stayed overnight when Ms Harfield and Pupil A were present on at least one occasion, although Pupil B denies ever having stayed overnight.

In regard to Pupil A, it is alleged that from November 2010 onwards Pupil A attended after school revision sessions with Ms Harfield at school, and this progressed to the sessions taking place at her home after school hours. It is further alleged that Ms



Harfield bought Pupil A an iPad and a laptop as gifts, and Pupil A said in evidence that Ms Harfield also registered and purchased a domain name for him. Pupil A's evidence was that he stayed overnight at Ms Harfield's home on two occasions, when Ms Harfield and Pupil B were also present. Pupil A has also said in evidence that Ms Harfield kissed him on two occasions at her home.

It is also alleged that over the Easter holidays in 2011, Ms Harfield maintained text contact with Pupil A and travelled to the village where he was staying. During this period, Pupil A says that he stayed overnight with Ms Harfield at his cousin's house where Pupil A and Ms Harfield shared a sofa bed, although Pupil A says that there was no physical contact with Ms Harfield. Pupil A also went to stay with his best friend, whose mother had been a friend of the family for several years. During Pupil A's stay, Pupil A spoke to Ms Harfield on Skype. Pupil A's friend's mother was concerned about Pupil A's relationship with Ms Harfield, spoke to Ms Harfield on the telephone, and asked her to desist from contacting Pupil A further. It is alleged that, despite this request, Ms Harfield continued to text Pupil A. Pupil A's friend's mother reported her concerns to Mayfield School.

## **Findings of Fact**

Our findings of fact are as follows:

We have considered the admissions made by Ms Harfield in her response to the Notice of Proceedings (at pages 10 to 12) and contained in the additional submission provided by Ms Harfield's NUT representative (at pages 135 to 136). We consider that those admissions are lacking in detail and specificity, and therefore we do not consider that these admissions amount to a clear and unequivocal admission of the specific particulars of allegation. There is also no agreed statement of facts. We have therefore considered it necessary to proceed with hearing the evidence presented by the Presenting Officer to allow the Panel to independently determine whether or not the facts are proved on the balance of probability.

### **1. Maintained an inappropriate relationship with Pupils A and/or B between around 2010 and 2011, which included:-**

#### **a. Making contact with Pupil A by telephone, text messages and Skype**

Pupil A's witness statement confirms at paragraphs 13 and 17 that Ms Harfield sent Pupil A text messages and had contacted him via Skype during the Easter holidays. During oral testimony, Pupil A confirmed that Ms Harfield had contacted him by telephone and text message on numerous occasions, and that she had initiated contact by Skype over the Easter holidays. Pupil A was adamant in his oral evidence that Ms Harfield would frequently contact him, to the point of being persistent, despite Pupil A sending short and brief replies to Ms Harfield in an attempt to "resist the levels of contact". We found Pupil A's evidence in this respect convincing.

Pupil A's evidence was corroborated by an email from Pupil A's friend's mother to Mayfield School, which is contained in the case papers at page 47. This email sets out concerns about Ms Harfield's relationship with Pupil A, Pupil A's friend's mother having viewed the levels of contact between them during Pupil A's stay with her. The email confirms that Pupil A was being contacted by Ms Harfield by mobile telephone, text message and Skype during the Easter holidays. Whilst this email was not direct evidence before the Panel, we find that it corroborates the evidence of Pupil A.

The notes taken by Witness A during the police interviews in 2011 also confirm that Pupil A had said to the police that Ms Harfield and Pupil A had 'skyped' and spoken on the phone during the Easter holidays.

On the basis of this evidence, we find the particular proven.

**b. Continuing to send Pupil A text messages after being asked to desist by the adult in charge of Pupil A that day**

Pupil A's witness statement confirms at paragraphs 17 that following Ms Harfield's conversation with Pupil A's friend's mother, Ms Harfield continued to send Pupil A text messages. This was also confirmed by Pupil A in oral testimony, when he said that Ms Harfield continued to text him following the conversation. Pupil A was unequivocal that these messages were initiated by Ms Harfield. Again, Pupil A's evidence was corroborated by the contents of the email from Pupil A's friend's mother. This email indicates that Pupil A's friend's mother told Ms Harfield that if there was any more contact with Pupil A she would call the police.

We found the evidence in regard to this particular to be compelling and we find the particular proven.

**c. Spending time with Pupil A and/or Pupil B at her home outside of school hours**

Pupil A's witness statement states that he spent time at Ms Harfield's home outside school hours on a number of occasions. During oral testimony, Pupil A confirmed this evidence and provided details about the DVDs he and Pupil B had watched at Ms Harfield's home.

At paragraph 6 of his witness statement, Pupil B confirms that he spent time with Ms Harfield at her house watching films.

The evidence of Witness A also supports this particular of allegation. The notes taken by Witness A during the police interviews in 2011 confirm that Pupil A had told the police that Ms Harfield had helped him with his homework both in and out of school. The notes from Witness A's interview with Pupil B in January 2012, carried out as part of the school's disciplinary investigation, record that Pupil B confirmed he had spent time at Ms Harfield's home outside school hours. We understand that Pupil A was not interviewed as part of the disciplinary process as he had left Mayfield School by this time.

We have also noted the additional submission provided by Ms Harfield's NUT representative, which states that "she [Ms Harfield] allowed them [a few of the pupils] to meet in her flat".

We find that there is clear, undisputed evidence throughout the case papers which supports the allegation that Pupil A and Pupil B spent time at Ms Harfield's house outside of school hours. We therefore find this particular proven.

**d. Staying overnight at her home and/or the home of Pupil A's cousin, with Pupil A**

In Pupil A's witness statement and during his oral evidence, Pupil A said that he stayed overnight at Ms Harfield's home on two occasions, and at his cousin's house with Ms Harfield on one occasion during the Easter holidays. During oral testimony, Pupil A confirmed that he shared a sofa bed with Ms Harfield at his cousin's house, although he could not recall how the sleeping arrangements were agreed. Pupil A said that there was no physical contact between him and Ms Harfield on this occasion.

The email from Pupil A's friend's mother also states that Pupil A's friend had informed his mother that Ms Harfield stayed with Pupil A at his cousin's house during the Easter holidays.

On the basis of the evidence presented, we find this particular proven.

**e. Sharing a bed with Pupil A and/or Pupil B**

In Pupil A's witness statement he states that he stayed overnight at Ms Harfield's home on two occasions and that Pupil B was also present. Pupil A says that on the second occasion, Pupil A, Pupil B and Ms Harfield shared a bed. Pupil A confirmed this evidence in oral testimony and said that he could not recall how the sleeping arrangements had been agreed. Pupil A confirmed that he did not disclose his whereabouts to his parents, instead saying to them that he was staying at Pupil B's house. As mentioned above, during oral testimony Pupil A also confirmed that he shared a sofa bed with Ms Harfield when staying overnight at his cousin's house in Devon.

In Pupil B's witness statement, Pupil B says that he did not stay overnight at Ms Harfield's home. This conflicts with Pupil A's evidence. Pupil B's witness statement also contradicts the account he gave to Witness A during her interview with him on 19 January 2012 (pages 50 to 51), carried out as part of the school's disciplinary investigation. Witness A's notes record that Pupil B told Witness A that he had stayed overnight at Ms Harfield's home with Pupil A on two separate occasions. However, Pupil B told Witness A that he would sleep on the floor of the bedroom and that Pupil A would share a bed with Ms Harfield.

We have considered the evidence before us with care, in particular the contradictory nature of the evidence. We have placed less weight on the witness statement of Pupil B

as the Panel has not had the opportunity to test and probe that evidence. We have also noted that Pupil B's witness statement contradicts information he gave to Witness A in January 2012. We prefer the evidence of Pupil A. Pupil A was clear in his oral evidence that he and Pupil B stayed overnight at Ms Harfield's home on two separate occasions, and that on at least one of these occasions Pupil A, Pupil B and Ms Harfield shared a bed.

We are satisfied on the balance of probabilities that Ms Harfield shared a bed with Pupil A and Pupil B at her home on at least one occasion and shared a bed with Pupil A at his cousin's house in Devon. We therefore find this particular proven.

#### **f. Paying Pupil B to clean your house**

In Pupil B's witness statement, Pupil B says at paragraph 5 that he started cleaning Ms Harfield's house some time in 2010 as she did not have time, and Ms Harfield paid Pupil B £10 a week to clean the house once a week. This evidence is corroborated by the witness statement of Pupil A. Pupil A says at paragraph 6 of his statement that Pupil B had told him that Ms Harfield was paying Pupil B £10-£20 a week to clean her home. However in oral evidence, Pupil A confirmed that he had never seen Ms Harfield give Pupil B money for cleaning.

The notes from Witness A's interview with Pupil B in January 2012 also state that Pupil B told Witness A that he cleaned for Ms Harfield, hoovering and helping with her animals, and that Ms Harfield paid him £10 on each occasion.

We have also noted the additional submission provided by Ms Harfield's NUT representative, which states that one of the students was "being paid as a cleaner and to care for her animals".

On the basis of the evidence before us, we find the particular proven.

#### **g. Buying gifts for Pupil A and/or Pupil B**

In Pupil A's witness statement, at paragraph 11 he says that Ms Harfield bought him an iPad 2. Pupil A goes on to say that around two weeks after this he had mentioned that he was going to buy a laptop and Ms Harfield then bought him one. Pupil A confirmed this in oral evidence. Pupil A also told the Panel that Ms Harfield had registered and paid for a domain name in relation to a business that Pupil A was intending to set up. The Panel consider the purchase of a domain name to constitute a gift. In oral evidence, Pupil A said that he felt uncomfortable about being bought these gifts. However, Pupil A kept the gifts as he was concerned that if he refused this may be interpreted by Ms Harfield as a rebuff, and he feared that Ms Harfield could influence the marking of his GCSE history coursework.

In Pupil B's witness statement, at paragraphs 12 and 13 he says that Ms Harfield bought him an iPod in 2010 to thank him for the help he had given her when she moved house,

and as an early Christmas present. Pupil B says that he told Ms Harfield he did not think it was right to accept gifts, but Ms Harfield told him to keep it and so he did. Pupil B goes on in his witness statement to say that Ms Harfield also bought him a Blackberry as she did not want him to feel left out after she bought Pupil A an iPad. Pupil B says in his witness statement that he again tried to give back the gift.

We have also noted the submission provided by Ms Harfield's NUT representative, which says that "Emma started buying them gifts".

On the basis of this evidence we are satisfied that the particular is proven.

We have found the following allegation against you not proven, for these reasons:

## **2. Failed to follow management advice in respect of allowing pupils into her classroom during break and lunchtimes.**

Witness B has provided both a witness statement and oral evidence in relation to her role as Ms Harfield's Line Manager and subject mentor. Witness B explained in oral evidence that it was in 2008 / 2009 when she first became concerned that Ms Harfield was allowing students into her classroom during lunch and break times. Witness B therefore had an informal discussion with Ms Harfield at this time, telling Ms Harfield that it was not good for her welfare to have the students in her classroom when she should be taking a break.

Witness B said in oral evidence that in the Spring term of 2011 she again became concerned that Ms Harfield was spending her breaks and after school time with groups of students in her classroom. Witness B also became concerned that Pupil A was spending a lot of time in Ms Harfield's classroom, although other students were usually present. Additionally, Pupil A was on occasions present during Ms Harfield's lessons when he was timetabled elsewhere. There was also a particular occasion in March 2011 when Pupil A and Pupil B were waiting for Ms Harfield after a parents evening at school (which did not relate to either Pupil A or B). Witness B said in evidence that she was concerned that Ms Harfield was crossing professional boundaries, and shared her concerns with Witness A.

Witness A and Witness B subsequently had a meeting with Ms Harfield to discuss these concerns. In oral evidence before the Panel, both Witness B and Witness A described this meeting as informal and the meeting was not minuted or recorded. Both Witness A and Witness B said that they raised these matters with Ms Harfield because they were concerned about her welfare and well-being.

Whilst noting that these concerns were escalated to Witness A, we have heard evidence that these concerns were treated informally and in a 'friendly' fashion. We would expect management advice to be formal advice which explained the possible consequences for Ms Harfield if the advice was not followed. We would also expect such management advice to be recorded and to relate to the school's formal disciplinary process. This did

not happen and consequently we are not satisfied that the advice given by Witness B and Witness A constituted “management advice”.

It is disappointing and surprising that these concerns were not treated more formally, particularly given the potential for serious consequences. This is particularly so in relation to the meeting in March 2011, given that Witness B had discussed these issues with Ms Harfield previously. The school should have dealt with both the potential safeguarding issues and Ms Harfield’s welfare. However, it appears that the school’s emphasis was on Ms Harfield’s well-being rather than on potential safeguarding issues.

If the allegation had simply read “failed to follow advice in respect of allowing pupils into her classroom during break and lunchtimes” we would have found that allegation proved. However, on the basis of the allegation as drafted, we have found this allegation not proven.

## **Findings as to Unacceptable Professional Conduct and/or Conduct that may bring the profession into disrepute**

In the response to the Notice of Proceedings and in the additional submission provided by Ms Harfield’s NUT representative, Ms Harfield accepts that the decisions she made and actions she took while teaching amount to professional misconduct. However, we as the Panel must make our own determination.

In considering the allegations we have found proven, we have had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the ‘Guidance’.

The Guidance states that unacceptable professional conduct and conduct that may bring the profession into disrepute is misconduct of a serious nature, falling significantly short of the standard of behaviour expected of a teacher and that this should be judged with reference to the latest standards published by the Secretary of State in June 2013.

We have considered the relevant standards, and in particular we consider that the following standards are relevant:

- Teachers uphold public trust in the profession and maintain high standard 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.
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

We have used our knowledge and experience of the teaching profession to assess Ms Harfield's fitness and suitability to be a teacher and have taken into account how the teaching profession is viewed by others and the influence that teachers may have on pupils, parents and others in the community.

Having found allegations 1a to 1g proven, we are satisfied that Ms Harfield's conduct fell significantly short of the standards expected of a teacher.

Ms Harfield established inappropriate relationships with both Pupil A and Pupil B. Ms Harfield bought them gifts, allowed them to stay overnight at her house and share her bed. Ms Harfield also stayed overnight with Pupil A at his cousin's house, again sharing a bed with Pupil A. Ms Harfield also persistently contacted Pupil A by telephone, text and Skype. In establishing and maintaining these relationships, Ms Harfield failed to respect the age and maturity of Pupil A and Pupil B, and Ms Harfield clearly crossed the professional boundaries that would be expected from any teacher / student relationship.

In maintaining these relationships with Pupil A and Pupil B, Ms Harfield completely disregarded the school's own Code of Professional Values and Practices. The Code requires that an appropriate "distance" from students be maintained, physical contact and private meetings be avoided and meetings outside school be forbidden without prior approval from the Head Teacher. Ms Harfield's conduct was also clearly in breach of statutory frameworks. Ms Harfield abused her position of trust as a teacher and failed to safeguard Pupil A and Pupil B.

We consider that Ms Harfield's behaviour amounts to serious professional misconduct. Maintaining a professional distance from students is fundamental to the teaching profession. It is an expectation recognised by all teachers and reinforced in their ongoing training. The public would not expect anything less.

We therefore find that Ms Harfield's actions in maintaining inappropriate relationships with Pupil A and Pupil B, is in clear breach of her professional responsibilities, of statutory frameworks and of the school's own Code of Professional Values and Practice. As such, this amounts to 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 is 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 has to consider whether it is a proportionate measure, and whether it is in the public interest to do so. Prohibition Orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The Panel has considered the particular public interest considerations set out in the Teacher Misconduct – Prohibition of Teachers Advice and having done so has found all the examples given to be relevant in this case, namely:

- The protection of children;
- The maintenance of public confidence in the profession; and
- Declaring and upholding proper standards of conduct.

The public interest consideration in respect of the protection of children is relevant given the findings against Ms Harfield concerning maintaining inappropriate relationships with two pupils aged 15 and under during the relevant time. Ms Harfield failed to maintain appropriate boundaries with both students.

Similarly, the Panel considers that public interest considerations exist in maintaining public confidence in the profession and declaring proper standards of conduct in the profession. Ms Harfield's conduct was in clear contravention of the Teachers' Standards and her behaviour was an abuse of her position as a teacher. The Panel has considered the seriousness of the findings and the importance of regulating the conduct of the profession.

Notwithstanding 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 Ms Harfield. In forming a judgement in this respect, the Panel took particular account of the evidence in mitigation that was contained in the case papers. The Panel considered carefully the mitigation put forward by Ms Harfield in respect of her ill-health, and the suggestion that this contributed to her behaviour.

In carrying out the balancing exercise the Panel considered the public interest considerations both in favour of and against prohibition as well as the interests of Ms Harfield. The Panel took further account of the Teacher Misconduct – Prohibition of



Teachers Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. From the list of such behaviours, the Panel has found the following to be relevant:

- Serious departure from the personal and professional conduct elements of the latest teachers' standards;
- Misconduct seriously affecting the education and / or well-being of pupils, and particularly where there is a continuing risk; and
- Abuse of position/trust (particularly involving vulnerable pupils) or violation of the rights of pupils

Even though there were behaviours that would point to a Prohibition Order being appropriate, the Panel went on to consider whether or not the mitigating factors outweighed a Prohibition Order being an appropriate and proportionate measure to impose, particularly bearing in mind the circumstances of this specific case.

Whilst there were no character references contained in the case papers, but on the basis that Ms Harfield had passed her NQT year at Mayfield School and was offered permanent employment there, which continued until she was dismissed, the Panel finds that Ms Harfield has a previously good employment history. The Panel understands that Ms Harfield has no criminal or disciplinary sanctions recorded against her. The Panel has also noted that no criminal proceedings were brought against Ms Harfield and the Disclosure and Barring Service made a decision not to bar Ms Harfield.

The Panel is satisfied that Ms Harfield's actions were deliberate. Ms Harfield bought gifts for the students, initiated telephone, text and Skype contact and permitted the students to spend time at her home outside school, including staying overnight and sharing her bed. Ms Harfield also deliberately ignored the advice of colleagues.

The Panel considered carefully whether Ms Harfield was acting under duress in making these decisions or in allowing the circumstances to arise, particularly bearing in mind the mitigating evidence concerning her ill-health. The Panel recognises that Ms Harfield's health may have resulted in her being prone to seeking friendships and possibly susceptible to the requests from students to spend time in her classroom. The Panel did however note the evidence from Witness B and Witness A, who both made clear that Ms Harfield was not presenting any signs of ill-health at school, and their concern for her welfare was only to ensure she took a break from the students during break and lunch times.

Having considered the evidence, the Panel has no doubt that the responsibility for establishing and maintaining professional boundaries with students lay with Ms Harfield, as the teacher. The Panel does not consider that the evidence presented concerning Ms Harfield's state of health mitigates the seriousness of the findings.

Taking all these factors into account, the Panel is of the view that Prohibition is both proportionate and appropriate. We have decided that the public interest considerations outweigh the interests of Ms Harfield. Failing to maintain appropriate boundaries is a fundamental breach of Ms Harfield's professional responsibilities. Accordingly, the Panel makes 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 them to decide to recommend that a review period of the order should be considered. The Panel were mindful that the Teacher Misconduct – Prohibition of Teachers Advice advises 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 two years.

In terms of insight shown by Ms Harfield, whilst Ms Harfield has not attended the hearing today, the statement from her NUT representative says that “Emma is becoming more aware of the inappropriate behaviour she was involved in as her treatment continues and has accepted that this was not suitable behaviour for a teacher”.

The Teacher Misconduct – Prohibition of Teachers Advice indicates that there are behaviours that, if proven, would militate against a review period being recommended. One of these behaviours is serious sexual misconduct. The Panel has found that Ms Harfield did kiss Pupil A on two occasions. These were not friendly greetings, but were described by Pupil B, who witnessed the kiss, as being “not a quick peck on the lips, but a proper kiss”. At a safeguarding meeting on 18 May 2011, attended by representatives from the school, Social Services and the police, a member of the Child Abuse Investigation Unit also said that during the course of the police investigation Pupil A had “mentioned kissing on the cheek and once on the lips with tongues”. The Panel has also found that Ms Harfield shared a bed with Pupil A and Pupil B on at least one occasion, and with Pupil A on another, separate occasion. The Panel considers that this behaviour represents sexual misconduct.

The Panel does consider the findings, particularly taken as a whole, to be extremely serious. The Panel finds that Ms Harfield's behaviour constitutes a clear breach of professional standards. It is a fundamental tenet of the teaching profession that boundaries with students be established and maintained at all times.

Therefore, the Panel felt 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 the findings and recommendations of the panel in this case.**

**The panel have found proven a number of allegations relating to maintaining inappropriate relationships with pupils A and B. They have assessed that her behaviour amounts to unacceptable professional conduct and conduct that may bring the profession into disrepute.**

**In considering whether a prohibition order is appropriate the panel have considered whether it would be both proportionate and in the public interest, taking account that a prohibition order should not be given in order to be punitive although such sanction is likely to have a punitive effect.**

**The panel are satisfied that Ms Harfield's actions were deliberate and that she ignored the advice of colleagues. In all the circumstances I agree with the panel's recommendation that a prohibition order is both appropriate and proportionate.**

**The panel have taken due note of the Secretary of State's advice relating to the Prohibition of Teachers in considering whether a review period is appropriate. The panel have judged that Ms Harfield's behaviour amounts to sexual misconduct and that the findings, taken as a whole, are extremely serious. I agree with the panel's recommendation that there should be no opportunity for Ms Harfield to apply for the prohibition order to be set aside.**

**This means that Ms Emma Jane Harfield 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 her, I have decided that Ms Emma Jane Harfield shall not be entitled to apply for restoration of her eligibility to teach.**

**This Order takes effect from the date on which it is served on the Teacher.**

**Ms Emma Jane Harfield has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date she is given notice of this Order.**

**NAME OF DECISION MAKER: Paul Heathcote**



**Date: 8 January 2014**

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