



National College for
Teaching & Leadership

Mr Neil David Giffin: Professional Conduct Panel outcome

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

January 2015

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

Teacher:	Mr Neil David Giffin
Teacher ref no:	02/41998
Teacher date of birth:	25 March 1979
NCTL Case ref no:	11758
Date of Determination:	13 January 2015
Former employer:	Bishop Heber High School and Thornhill Community Academy

A. Introduction

A Professional Conduct Panel (“the Panel”) of the National College for Teaching and Leadership (“the National College”) convened on 13 January 2015 at 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH to consider the case of Mr Neil David Giffin.

The Panel members were Mr Keith Jackson-Horner (Teacher Panellist – in the Chair), Mrs Kathy Thomson (Teacher Panellist) and Mr Adam Nichols (Lay Panellist).

The Legal Adviser to the Panel was Mrs Luisa Gibbons of Eversheds LLP Solicitors.

The Presenting Officer for the National College was Rachel Morgan of Nabarro Solicitors.

Mr Giffin was unrepresented.

Convened as a meeting, neither the Presenting Officer nor Mr Giffin was present. The meeting took place in private and was not recorded save for the public announcement of the Panel’s findings on fact and unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

B. Allegations

The Panel considered the allegations set out in the Notice of Meeting dated 18 December 2014, as amended pursuant to an application by the Presenting Officer as considered by the Panel referred to below.

It was alleged that Mr Giffin was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that:

1. Whilst employed at Thornhill Community Academy (“the Academy”) during 2012 to April 2014 he created Facebook accounts, which he used to communicate with pupils whom he had taught at Bishop Heber High School in the following names:

- a Guy Andre
- b Alan Shepard
- c Frank Shepard
- d Chelsea Smith

2. Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil A (a vulnerable teenage girl):

- a. He failed to maintain appropriate boundaries
- b. He inappropriately communicated with her including via social media and/or mobile phone
- c. The inappropriate communication which he engaged in with Pupil A included matters of a sexual nature

3. Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil B he:

- a. Failed to maintain appropriate boundaries,
- b. Inappropriately communicated with her including via social media,

4. Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil C he:

- a. Failed to maintain appropriate boundaries
- b. Inappropriately communicated with her including via social media

5. In around 2007 to 2008 in relation to Pupil D, he:

- a. Engaged in an inappropriate relationship with her
- b. Engaged in sexual activity with her

- c. Had sexual intercourse with her
6. In around 2007 to 2008 in relation to Pupil E, he:
- a. Engaged in an inappropriate relationship with her
 - b. Engaged in sexual activity with her
 - c. Had sexual intercourse with her
7. His actions set out at 1 were dishonest
8. His actions set out at 2, 5 and 6 were sexually motivated

Mr Giffin admitted the facts of the allegations, save for allegations 2a, 3a, 4a, and 8 (in relation to 2a, 6b and 6c).

Mr Giffin admitted that his actions constituted unacceptable professional conduct and may bring the profession into disrepute.

C. Preliminary applications

The Panel firstly considered as a preliminary matter whether it should proceed with a meeting.

The Panel considered at the outset whether the allegation should be considered at a public hearing which the parties would be entitled to attend, or a private meeting without the parties present. The Panel noted that Mr Giffin had requested a meeting in his response to the Notice of Referral Form dated 14 August 2014. The Panel considered the interests of justice. Given that the facts of the allegation have been admitted, Mr Giffin has requested a meeting and the Panel has the benefit of Mr Giffin's representations, the Panel was of the view that justice would be adequately served by considering this matter at a meeting.

The Panel carefully considered the public interest. The Panel noted that if the case were to proceed as a meeting, there would be a public announcement of the Panel's decision. The Panel also had in mind that if a hearing was convened, there would be a cost to the public purse, which may not be justified if the matter could be determined in a meeting. The Panel noted that if a hearing were to be convened, witnesses would be needed to attend, which would be likely to include Pupil A, who is described as being vulnerable in the allegations. The Panel also had regard to the delay that would be caused by convening a hearing and considered it to be in the public interest to reach a final determination in this matter without further delay. The Panel therefore decided to proceed with a meeting, but noted that it could, at any stage of the meeting, reconsider this issue.

The Panel considered an application by the Presenting Officer to amend the allegations to correct the chronology. The Panel noted that Mr Giffin had been informed of the application, and that no representations had been made by him in response. The Panel decided to amend the allegations, as proposed, since it did not consider that Mr Giffin would be prejudiced by the amendments.

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 1 – 3
Section 2: Notice of Referral and Response	Pages 4 – 10c
Section 3: Statement of Agreed Facts and Presenting Officer Representations	Pages 11 – 20
Section 4: National College for Teaching and Leadership Documents	Pages 21 – 147
Section 5: Teacher Documents	Pages 150 – 155

The Panel noted that there were no pages 148 or 149 of the Bundle and received confirmation that these were intentionally left blank.

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

The Panel accepted an amended Statement of Agreed Facts as pages 16a to 16e. It also accepted an email from Mr Giffin dated 7 January 2015, supplemental presenting officer representations applying to amend the allegation with proposed revised allegations, and a covering letter to Mr Giffin. These were paginated as pages 20a to 20h.

Witnesses

Convened as a meeting, the Panel heard no oral evidence.

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 and the additional documents provided.

Summary of Evidence

Between 2003 and 2012, Mr Giffin was employed as a History Teacher at Bishop Heber High School (“the School”).

From 2012, Mr Giffin was employed at the Thornhill Community Academy (the “Academy”) as Head of Humanities. On 15 January 2014, an investigation was launched regarding a report of Mr Giffin having allegedly had inappropriate communications with Pupil A, a pupil of the School. On 22 January 2014, the School became aware that Pupil B and Pupil C, also pupils of the School, claimed to have received messages from Mr Giffin. There was a previous concern raised following a report alleging that Mr Giffin had engaged in a relationship with a Year 13 pupil of the School following the Year 13 Prom, and that the relationship had ended when he rekindled a relationship with a previous girlfriend who was also an ex-pupil of the School. He was suspended from his post at the Academy on 24 January 2014 pending an internal investigation. On 14 April 2014, he tendered his resignation from his post at the Academy, which took effect from 28 April 2014.

Findings of Fact

Our findings of fact are as follows:

We have found the following particulars of the allegations against you proven, for these reasons:

1 Whilst employed at Thornhill Community Academy (“the Academy”) during 2012 to April 2014 you created Facebook accounts, which you used to communicate with pupils whom you had taught at Bishop Heber High School in the following names: a Guy Andre; b Alan Shepard; c Frank Shepard; d Chelsea Smith

In the Statement of Agreed Facts, Mr Giffin has admitted having set up fictitious Facebook accounts in the names set out in this allegation.

During an interview conducted for the purposes of the Academy’s investigation, Mr Giffin admitted having made the first contact with Pupil A. He stated, “I was using a fake Facebook account under the name Guy Andre...”. Later in the interview, he was asked whether he had used any other Facebook aliases to contact students at the School since he left, and specifically he was asked if he had used the alias Chelsea Smith. He replied,

“Yes. You can change the name of accounts”. He was asked if he had ever used the Facebook alias Frank Shepard, and he responded, “Possibly. And Alan Shepard”.

A report from West Yorkshire Police states that the police had spoken with Pupil A and she stated that she had been ‘added on Facebook’ by an account named ‘Guy Andre’ and that he had later admitted that he was Mr Giffin. Her account of the use of the alias ‘Guy Andre’ fits with the admissions made by Mr Giffin.

During another interview conducted for the purposes of the Academy’s investigation, the Child Protection Lead at the School stated that Pupils B and C, “had both received ‘in box messages’ via Facebook from ‘Guy Andre’, ‘Frank Shepard’ and ‘Chelsea Smith’ – disclosed as NG [Mr Giffin]”.

In light of the admissions made by Mr Giffin, the corroboratory evidence from Pupil A and the account provided by the Child Protection Lead, the Panel considered it more probable than not that Mr Giffin had used these aliases to communicate with pupils he had taught at the School.

This allegation was therefore found proven.

2a Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil A (a vulnerable teenage girl) you failed to maintain appropriate boundaries

In the Statement of Agreed Facts, Mr Giffin has admitted that he knew, or ought to have known, that Pupil A was a student with Special Educational Needs and vulnerable. He also admitted that Pupil A had, during the course of his communication with her, informed him of matters which, in the Panel’s view, would have indicated her vulnerability.

During the interview conducted with Mr Giffin as part of the Academy investigation, he stated that, as Pupil A’s teacher, he hadn’t been aware that Pupil A was on the Special Educational Needs Register, but was aware that she had ‘issues’. He stated that he was aware that Pupil A had been referred to a specialist.

During an interview for the Academy investigation, the headteacher of the School stated that information relating to Pupil A had been included on a list, of which Mr Giffin had been made aware, and that he would have received detailed information about her in notes of an inclusion meeting which took place on a weekly basis to discuss vulnerable students.

The Panel was satisfied that Pupil A was vulnerable.

In his written representations, Mr Giffin stated that he accepted he had behaved inappropriately. Since the Panel also found that Mr Giffin communicated inappropriately with Pupil A, with reasons set out below, it considered that this constituted a failure to maintain appropriate boundaries.

2b In relation to Pupil A (a vulnerable teenage girl) you inappropriately communicated with her including via social media and/or mobile phone

In the Notice of Referral, an allegation was put to Mr Giffin that he had “engaged in inappropriate social media and mobile phone communications... with a 17 year old, vulnerable female pupil [Pupil A]”. In Mr Giffin’s response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts contains a summary of the content of text messages and WhatsApp Messages exchanged between Mr Giffin and Pupil A.

During his interview for the Academy investigation, Mr Giffin admitted having used a fake Facebook account when he first contacted Pupil A, that he had shared information with her that he was in a relationship, that he had raised a question about what students thought of cross-dressing and that Pupil A had confided personal details about her state of mind to him. He also accepted that he had used his mobile phone to send text and WhatsApp messages to Pupil A.

A report from West Yorkshire Police states that the police had spoken with Pupil A and she stated that she had begun to trust him and she felt as though they shared a mutual confidence as he had shared personal information with her. The report states that Pupil A did not think that Mr Giffin had acted inappropriately towards her, but that there were also concerns about whether Pupil A was trying to protect Mr Giffin.

Having read the summary of the content of the messages that Mr Giffin has admitted were exchanged between him and Pupil A, the Panel considered that these constituted inappropriate communication.

This allegation was therefore found proven.

2c In relation to Pupil A (a vulnerable teenage girl) the inappropriate communication which you engaged in with Pupil A included matters of a sexual nature

In the Notice of Referral, an allegation was put to Mr Giffin that he had “engaged in inappropriate social media and mobile phone communications, including of a sexual nature, with a 17 year old, vulnerable female pupil [Pupil A]”. In Mr Giffin’s response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts contains a summary of the content of text messages and WhatsApp Messages exchanged between Mr Giffin and Pupil A. Mr Giffin has admitted these included telling Pupil A he was jealous of her because she looked good in tights, that other girls in her class looked sexy in tights, that he was jealous because he wanted

to wear tights and that he had sent messages discussing sexual fantasies including imagining Pupil A in her school uniform and smoking a cigarette on top of him.

During his interview for the Academy investigation, Mr Giffin admitted that he could, “see how some messages were inappropriate and included what could be deemed as being of a ‘sexual nature’ but at the time it didn’t appear to me like that but more of silly conversations”.

The report from West Yorkshire Police states that the police had spoken with Pupil A who had allowed an officer to read some of the text messages sent to her by Mr Giffin in which he told her that he thought about her and the other girls in tights and was jealous and that he told Pupil A of a fantasy he had of her dominating him and smoking, saying that he missed the uniform.

The Panel considered it more likely than not that Mr Giffin had sent messages with the above content, and that these were matters of a sexual nature.

This allegation was therefore found proven.

3a Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil B you failed to maintain appropriate boundaries;

In the Notice of Referral, an allegation was put to Mr Giffin that he had “inappropriately contacted the following pupils whom he had taught at Bishop Heber High School...[Pupil B]”. In Mr Giffin’s response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts contains an admission that Mr Giffin initiated contact with Pupil B via Facebook and attempted to add her as a friend. He admitted that he had taught Pupil B at the School which he had left in 2012.

During his interview for the Academy investigation, Mr Giffin was asked if he had made contact with Pupil B at any point since he had left the School. He responded, “Yes. I attempted to add 4 or 5 students on Facebook – a couple didn’t respond”.

During another interview conducted for the purposes of the Academy’s investigation, the Child Protection Lead at the School stated that Pupils B and C, “had both received ‘in box messages’ via Facebook from ‘Guy Andre’, ‘Frank Shepard’ and ‘Chelsea Smith’ – disclosed as NG [Mr Giffin]”.

Although it does not appear that Pupil B responded, the Panel found it proven that Mr Giffin failed to maintain appropriate boundaries since he initiated contact with Pupil B, a pupil at the School.

This allegation was therefore found proven.

3b In relation to Pupil B you inappropriately communicated with her including via social media

The Panel had regard to the reasoning above in relation to allegation 3a. In his use of an alias, Pupil B could not have known that Mr Giffin was attempting to contact her. The Panel found that it was inappropriate for Mr Giffin to contact a pupil in this way.

This allegation was therefore found proven.

4a Whilst employed at the Academy during 2012 to April 2014 in relation to Pupil C you failed to maintain appropriate boundaries;

In the Notice of Referral, an allegation was put to Mr Giffin that he had “inappropriately contacted the following pupils whom he had taught at Bishop Heber High School...[Pupil C]”. In Mr Giffin’s response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts contains an admission that Mr Giffin initiated contact with Pupil C via Facebook and attempted to add her as a friend. He admitted that he had taught Pupil C at the School which he had left in 2012.

During his interview for the Academy investigation, Mr Giffin was asked if he had made contact with Pupil C at any point since he had left the School. He responded, “Yes. I attempted to add 4 or 5 students on Facebook – a couple didn’t respond”.

During another interview conducted for the purposes of the Academy’s investigation, the Child Protection Lead at the School stated that Pupils B and C, “had both received ‘in box messages’ via Facebook from ‘Guy Andre’, ‘Frank Shepard’ and ‘Chelsea Smith’ – disclosed as NG [Mr Giffin]”.

Although it does not appear that Pupil C responded, the Panel found it proven that Mr Giffin failed to maintain appropriate boundaries since he initiated contact with Pupil C.

This allegation was therefore found proven.

4b In relation to Pupil C you inappropriately communicated with her including via social media

The Panel had regard to the evidence referred to in the reasoning above in relation to allegation 4a. In his use of an alias, Pupil C could not have known that Mr Giffin was attempting to contact her. The Panel found that it was inappropriate for Mr Giffin to contact a pupil in this way.

This allegation was therefore found proven.

5a In around 2007 to 2008 in relation to Pupil D you engaged in an inappropriate relationship with her

In the Notice of Referral, an allegation was put to Mr Giffin that he had “engaged in an inappropriate relationship with a Year 13 pupil [Pupil D]”. In Mr Giffin’s response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts includes an admission that Mr Giffin engaged in an inappropriate relationship with Pupil D following the Year 13 Summer Ball shortly after she had left the School.

During his interview for the Academy investigation, Mr Giffin stated, “I did date a student. To clarify, we did spend time together”. He named this student as Pupil D. He stated that this had started over the summer holidays, when he considered Pupil D to be a former pupil. He was asked, “How long did it last?”, and he replied, “ About 6 months”.

In representations for these proceedings, Mr Giffin stated that it was only after Pupil D finished school that they struck up a friendship which became intimate whilst she was at University.

During another interview conducted for the purposes of the Academy’s investigation, the headteacher at the School stated that, in around 2007 or 2008, he had raised questions about an incident after the Summer Ball. He stated that Pupil D’s parents had acknowledged that a relationship took place between Mr Giffin and Pupil D.

In light of Mr Giffin’s admissions, and the hearsay evidence provided by the headteacher, the Panel considered it more likely than not that a relationship took place between Mr Giffin and Pupil D. The Panel considered this to be inappropriate since it contravened Mr Giffin’s position of trust in relation to Pupil D.

The Panel therefore found this allegation proven.

5b In relation to Pupil D you engaged in sexual activity with her

The Statement of Agreed Facts includes an admission that Mr Giffin engaged in sexual activity with Pupil D.

During his interview for the Academy investigation, Mr Giffin stated, “No I didn’t have a sexual relationship”, but went on to state that he had spent time with Pupil D for a period of 6 months.

The hearsay evidence provided by the headteacher of his discussion with Pupil D’s parents, is that they stated that no sexual intercourse had taken place whilst the girl was under the age of 18. The Panel considered it implicit that sexual intercourse had taken place with Pupil D when she was over the age of 18.

Mr Giffin's representations for these proceedings confirmed that the relationship had become intimate when Pupil D was at University.

Given Mr Giffin's acceptance that this relationship lasted a period of 6 months, and in light of Mr Giffin's admission in the Statement of Agreed Facts, the Panel considers it more likely than not that he engaged in sexual activity with Pupil D.

This allegation was therefore found proven.

5c In relation to Pupil D you had sexual intercourse with her

The Statement of Agreed Facts includes an admission that Mr Giffin had sexual intercourse with Pupil D.

During his interview for the Academy investigation, Mr Giffin stated, "No I didn't have a sexual relationship", but went on to state that he had spent time with Pupil D for a period of 6 months.

The hearsay evidence provided by the headteacher of his discussion with Pupil D's parents is that they stated that no sexual intercourse had taken place whilst the girl was under the age of 18. The Panel considered it implicit that sexual intercourse had take place with Pupil D when she was over the age of 18.

Mr Giffin's representations for these proceedings confirmed that the relationship had become intimate when Pupil D was at University.

Given Mr Giffin's acceptance that the relationship became intimate whilst Pupil D was at University, his admission of a sexual relationship, and the hearsay evidence of Pupil D's parents, the Panel considers it more likely than not that he had sexual intercourse with Pupil D.

This allegation was therefore found proven.

6b In relation to Pupil E you engaged in sexual activity with her

The Statement of Agreed Facts includes an admission that Mr Giffin engaged in sexual activity with Pupil E. The Panel accepted this admission and found the allegation proven.

6c In relation to Pupil E you had sexual intercourse with her

The Statement of Agreed Facts includes an admission that Mr Giffin had sexual intercourse with Pupil E. The Panel accepted this admission and found the allegation proven.

7 Your actions set out at 1 were dishonest;

The Panel received and accepted advice from the Legal Adviser that if it was satisfied on a balance of probabilities that the facts of allegation 1 were proved then there was a further requirement to consider two questions when deciding whether Mr Giffin's actions were dishonest.

The Panel was advised that the first limb of the traditional test to which Panels are referred is "whether the panel is satisfied on the balance of probabilities that Mr Giffin's actions would be regarded as dishonest according to the standards of ordinary and reasonable people".

The Panel was informed of judicial comment in a November 2014 case which was of persuasive authority, which stated that the question the Panel should ask itself was whether, according to the standard of the reasonable and honest professional (in that case doctor, in this case teacher), what was done was dishonest. If so, is the Panel satisfied that Mr Giffin himself must have realised that his actions would be regarded as dishonest by those standards? The Panel accepted that only if the answer to both these questions is yes can the allegation of dishonesty be established in this case.

On the objective test, the Panel was satisfied that both reasonable and honest people and reasonable and honest teachers would consider it dishonest for a teacher to assume an alias when initiating contact with pupils he had formerly taught.

The Panel went on to consider whether Mr Giffin would have known that what he was doing was, by those standards, dishonest.

In the Notice of Referral, an allegation was put to Mr Giffin that he had "displayed serious dishonesty by creating a number of 'fake' Facebook accounts which were used to communicate with these pupils". In Mr Giffin's response form, he admitted the entirety of the allegations put to him.

In an interview as part of the Academy's investigation, Mr Giffin stated, "I didn't want them (them being the random people I had initially added out of boredom) to know who was looking at them. There was a disparity between common sense and logic". Later, he stated, "it wasn't long before I told her [Pupil A] that it was me. I wasn't deliberately trying to conceal my identity".

In representations for these proceedings, Mr Giffin stated, "I did create fake Facebook accounts to alleviate boredom and to provide a form of escapism from the stress and pressure of my life at the time"... "the conversations were not premeditated and on a number of occasions under the influence of alcohol".

The Panel considered that Mr Giffin would have known that these actions would be regarded as dishonest by the standards of reasonable and honest people or reasonable

and honest teachers. He must have known that these actions would offend the normally accepted standards of honest conduct.

This allegation is therefore found proven.

8 Your actions set out at 2, 5 and 6 were sexually motivated

The Panel noted that Mr Giffin had admitted sexual motivation in relation to his communications with Pupil A in both his response to the Notice of Referral and in the Statement of Agreed Facts. The Panel noted that Mr Giffin has stated in his representations for these proceedings that his contact with Pupil A was not motivated by trying to establish a sexual relationship. However, in referring to matters of a sexual nature, the Panel considered that it was more likely than not that his actions set out at allegation 2 were sexually motivated.

The Panel also noted that Mr Giffin admitted in the Statement of Agreed Facts that his actions in engaging in an inappropriate relationship, sexual activity and sexual intercourse with Pupil D were sexually motivated. Given that it has found the allegation of sexual activity to be proven, the Panel accepted that the motivation for his actions as set out at allegation 5 was sexual.

The Panel did not find allegation 6a proven, so therefore did not go on to consider sexual motivation. In relation to allegations 6b and 6c, since the conduct involved sexual activity, the Panel considered that Mr Giffin's actions were sexually motivated.

This allegation was therefore found proven, save for in respect of allegation 6a.

We have found the following particulars of the allegations against you not proven, for these reasons:

6a In around 2007 to 2008 in relation to Pupil E you engaged in an inappropriate relationship with her

In the Notice of Referral, an allegation was put to Mr Giffin that he had "engaged in an inappropriate relationship with an unnamed former pupil". In Mr Giffin's response form, he admitted the entirety of the allegations put to him.

The Statement of Agreed Facts includes an admission that Mr Giffin engaged in an inappropriate relationship with a former pupil, Pupil E.

The report from West Yorkshire Police states that the School held further information that the relationship Mr Giffin had formed with a pupil following the Year 13 Prom had ended when he rekindled a relationship with a previous girlfriend who was also an ex pupil. The report stated, "It is unclear when this relationship first started but Neil Giffin claimed it

started shortly after the pupil had left school". Pupil E's name is unknown in these proceedings, and it is unclear if the reference in the police report is a reference to Pupil E.

No information was provided by the headteacher or Child Protection Lead of the School regarding this relationship when they were interviewed as part of the Academy's investigation.

In representations for these proceedings, Mr Giffin has stated that his relationship with Pupil E was in no way linked to his role at the School, as they only first met after he had started work at the School, when Pupil E was no longer a pupil. He stated that he did not work at the School when she was a student there, and that they had met at a night out in Chester.

The Panel considered that Mr Giffin's admission in the Statement of Agreed Facts was contradicted by his written representations. There was no evidence before the Panel about Pupil E's identity, the dates she attended the School and whether this coincided with the time that Mr Giffin taught at the School.

The Panel therefore found this allegation not proven.

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

In considering the allegations that the Panel has found proven, the Panel has had regard to the definitions in The Teacher Misconduct – Prohibition of Teachers Advice, which we refer to as the 'Guidance'.

The Panel is satisfied that the conduct of Mr Giffin in relation to the facts found proven involved breaches of the Teachers' Standards. The Panel considers that by reference to Part Two, Mr Giffin 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
 - showing tolerance of and respect for the rights of others
- 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

The Panel is satisfied that the conduct of Mr Giffin fell significantly short of the standards expected of the profession.

The Panel was concerned that there was a pattern of repetition. Having had an inappropriate relationship with a former pupil several years earlier, he again failed to maintain appropriate boundaries with three pupils from his previous school. The Panel noted that, in relation to Pupil A, he stated in an investigative interview that he knew what he was doing was wrong and deactivated his fake Facebook account, yet he went on to reactivate that account to further communicate with Pupil A.

The Panel has also considered whether Mr Giffin's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance. The Panel noted that it has found that sexual activity took place and that Mr Giffin acted with sexual motivation. The Guidance 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 believes Mr Giffin's actions led to Pupils A, B, C and D being exposed to or influenced by harmful behaviour.

Although the Panel found allegations 6b and 6c proven, it has not taken the relationship between Mr Giffin and Pupil E into account when considering its finding of unacceptable professional conduct, since it was not proven that this relationship was inappropriate, as per allegation 6a.

Accordingly, the Panel is satisfied that Mr Giffin is guilty of unacceptable professional conduct.

The Panel has taken into account how the teaching profession is viewed by others and has considered the influence that teachers may have on pupils, parents and others in the community. The Panel has taken account of the uniquely influential role that teachers can hold in pupil's lives and that pupils must be able to view teachers as role models in the way they behave.

These findings of misconduct are serious. Mr Giffin acted dishonestly, and breached his position of trust. The conduct he displayed would likely have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

The Panel therefore finds that Mr Giffin's actions constitute 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 an appropriate and 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 Guidance and having done so has found all of them to be relevant in this case, namely the protection of pupils, the protection of other members of the public, the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.

There is a strong public interest consideration in respect of the protection of pupils given the serious findings of failing to maintain appropriate boundaries and of an inappropriate relationship.

Similarly, the Panel considers that public confidence in the profession could be seriously weakened if such conduct was not treated with the utmost seriousness when regulating the profession.

The Panel concluded there was a strong public interest consideration in declaring proper standards of conduct in the profession as such conduct could not reasonably be tolerated.

Notwithstanding the clear public interest factors 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 Giffin.

In carrying out this balancing exercise the Panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Giffin. The Panel took further account of the Guidance, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proven. In the list of such behaviours, those that are relevant in this case are:

- 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
- a deep-seated attitude that leads to harmful behaviour
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils

- dishonesty especially where there have been serious consequences, and/or it has been repeated and/or covered up
- sexual misconduct, eg 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

The pattern of behaviour referred to above leads to concerns that there may be a continuing risk, and indicates a deep-seated attitude potentially leading to further harmful behaviour.

Even though there were behaviours that would point to a prohibition order being appropriate, the Panel went on to consider whether or not there were sufficient mitigating factors against a prohibition order being an appropriate and proportionate measure to impose, particularly taking into account the nature and severity of the behaviour in this case.

In mitigation, Mr Giffin stated that he used the fake Facebook accounts to provide a form of escapism from the stress and pressures of his life at the time, including various personal and financial problems. The Panel did not consider that these factors excused his behaviour. He also described his actions as being "to alleviate boredom". The Panel therefore considered his actions to have been deliberate, without any regard for the potential consequences for the pupils, particularly Pupil A, a vulnerable pupil.

Mr Giffin has expressed regret for his actions, but the Panel noted that he does not appear to have recognised the potential impact his actions may have had on the pupils, other than his generic statement referring to the "anguish, inconvenience and embarrassment" that his actions have caused everyone affected. Nonetheless, he has co-operated with the investigation, having made admissions from the stage that the allegations came to be investigated by the Academy. He has recognised the stress that a hearing would have caused to any witness called.

Other than the matters that are the subject of the allegations found proven, Mr Giffin is of previous good history although no references have been provided from any colleagues that can attest to his abilities as a teacher. The Panel noted, however, that the headteacher of the School stated that, aside from these allegations, Mr Giffin was an "outstanding practitioner who had the strongest of relationships at every level".

The Panel recognises Mr Giffin has taken steps to address the stress and anxiety that he considers led him to his actions although no independent evidence has been produced to demonstrate progress made.

The Panel is of the view that prohibition is both proportionate and appropriate. The Panel has decided that the public interest considerations, in particular the protection of pupils, outweigh the interests of Mr Giffin. The repetition of incidents over a significant period of time, including recommencing communications with Pupil A, despite realising it

was wrong, was a significant factor in forming that opinion. The Panel believes this indicates a continuing risk. 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 to recommend a review period of the order. The Panel was mindful that the Guidance advises that a prohibition order applies for life, but there may be circumstances in any given case that make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time of not less than two years.

The Guidance 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 Mr Giffin to have acted with sexual motivation, that he breached his position of trust, that he repeated his pattern of behaviour, and that one of the pupils involved was a vulnerable pupil where there was the potential to result in harm. Mr Giffin has shown regret, but the Panel did not consider he had shown sufficient insight into the impact his actions may have had on the pupils.

The Panel felt that its findings represent an outcome in which a review period would not be appropriate. As such, it 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 the findings and recommendations of the panel in this case.

The panel have found a range of allegations against Mr Giffin proven relating to inappropriate communications, failure to maintain appropriate boundaries and inappropriate relationships including sexual activity. They have also found dishonesty and that in some instances Mr Giffin's behaviour was sexually motivated. The panel have determined that his behaviour and actions amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. Mr Giffin has admitted the same.

In considering whether a prohibition order would be an appropriate and proportionate sanction the panel have properly considered both the public interest and the interests of Mr Giffin. The panel have provided a detailed analysis of their considerations in this respect and have recommended that a prohibition order is an appropriate sanction in this case. I agree with their recommendation.

In considering whether it would be appropriate to recommend a review period the panel have paid close attention to the Secretary of State's guidance '*Teacher misconduct: the*

prohibition of teachers'. In particular the guidance is clear that there are certain behaviours that would militate against a review period. These include serious sexual misconduct.

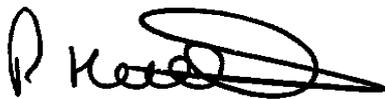
Mr Giffin's actions have been found to be sexually motivated. There is a repeated pattern of behaviour and there was clear potential for a vulnerable pupil to be harmed. Whilst he has shown regret, there is little evidence of insight into the impact his actions might have had on pupils. In the circumstances I agree with the recommendation that the order should be without an opportunity to apply for it to be set aside.

This means that Mr Neil David Giffin 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 Neil David Giffin 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 Neil David Giffin has a right of appeal to the Queen's Bench Division of the High Court within 28 days from the date he is given notice of this Order.

NAME OF DECISION MAKER: Paul Heathcote

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

Date: 14 January 2015

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