



National College for
Teaching & Leadership

Michael James Lingard: Professional Conduct Panel outcome

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

March 2015

Contents

A. Introduction	3
B. Allegations	4
C. Preliminary applications	5
D. Summary of evidence	6
Documents	6
Witnesses	6
E. Decision and reasons	6
Panel's recommendation to the Secretary of State	11
Decision and reasons on behalf of the Secretary of State	13

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

Teacher:	Mr Michael Lingard
Teacher ref no:	9541815
Teacher date of birth:	16 June 1973
NCTL Case ref no:	0011060
Date of Determination:	9 March 2015
Former employer:	School X and School Y

A. Introduction

A professional conduct panel (“the panel”) of the National College for Teaching and Leadership (“the National College”) convened on 9 March 2015 at 53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH to consider the case of Mr Michael James Lingard.

The panel members were Ms Nicole Jackson (Lay Panellist) Mr Tony James (Teacher Panellist– in the Chair), Mr John Pemberton (Teacher Panellist).

The legal adviser to the panel was Mrs Fiona Walker of Eversheds LLP Solicitors.

The presenting officer for the National College was Mr Christopher Geering of Nabarro LLP Solicitors.

Mr Michael Lingard 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 11 November 2014.

It was alleged that Mr Michael Lingard was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed by School X between September 2006 and 31 August 2012, and/or whilst employed by School Y between 1 September 2012 and 3 June 2013:

He failed to maintain appropriate professional boundaries with Pupil A, in that he:

- a) provided Pupil A with his personal mobile telephone number,
- b) sent Pupil A text messages from his mobile telephone number on one or more occasions,
- c) failed to take appropriate action when he received text messages from Pupil A on one or more occasions, including messages which stated:
 - i. she wanted to kiss him, or words to that effect,
 - ii. she wanted him, or words to that effect,
 - iii. she loved him, or words to that effect,
 - iv. she did not want to lose him, or words to that effect,
- d) failed to take appropriate action when he received an inappropriate picture message of Pupil A in a state of undress,
- e) hugged Pupil A on one or more occasions,
- f) allowed Pupil A to come to his house,
- g) Told Pupil A she was “special” on one or more occasions,
- h) Told Pupil A she was “beautiful” on one or more occasions,
- i) Met with Pupil A on one or more occasions, including:
 - i. On 13 September 2012 during a hockey match at the Academy,
 - ii. On 28 September 2012 when Pupil A was due to be at hockey practice at the School;
- j) without parental permission he:
 - i. stored a picture or pictures of Pupil A on his computer.

His actions set out at 1(a), and/or 1(b) and/or 1(c) and/or 1(d) and/or 1(e) and/or 1(f) and/or 1(g) and/or 1(h) and/or 1(i) and/or 1(j) were sexually motivated.

Mr Lingard does not wholly admit the facts of the allegations and does not admit that they amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

C. Preliminary applications

The Panel considered an application by the Presenting Officer to proceed in Mr Lingard's absence. The Panel was satisfied that the College has complied with the service requirements of Regulation 19 a to c of the Teachers' Disciplinary (England) Regulations 2012 (the "Regulations"). The Panel was also satisfied that the Notice of Proceedings complied with paragraphs 4.11 and 4.12 of the Procedures. The Panel determined to exercise its discretion under Paragraph 4.29 of the Procedures to proceed with the hearing in the absence of Mr Lingard. The Panel understood that its discretion to commence a hearing in the absence of the teacher is to be exercised with the utmost care and caution, and that its discretion is a severely constrained one. In making its decision, the Panel noted that the teacher may waive his right to participate in the hearing. The Panel took account of the various factors drawn to its attention from the case of *R v Jones* [2003] 1 AC1. The Notice of Proceedings was sent to Mr Lingard by first class post on 11 November 2014 (Page 10 of the hearing bundle) which was more than the required 8 weeks' notice of the hearing. Confirmation had previously been received from Mr Lingard's union representative that he would not be attending any hearing. This was confirmed in the letter of 18 February 2014 and also in other correspondence received from Mr Lingard or his representative. The Panel therefore considered that Mr Lingard had waived his right to be present at the hearing in the knowledge of when and where the hearing is taking place. The Panel had regard to the requirement that it be only in rare and exceptional circumstances that a decision should be taken in favour of the hearing taking place. There was no indication that an adjournment might result in Mr Lingard attending the hearing. The Panel had regard to the extent of the disadvantage to the teacher in not being able to give his account of events, having regard to the nature of the evidence against him. The Panel confirmed that it will take into account the response from Mr Lingard at Pages 99-103 of the hearing bundle and the evidence in the hearing bundle from the disciplinary proceedings in ensuring it seeks to understand his position in his absence. The Panel also confirmed that it would test the evidence of the witnesses who are being called to give evidence. The Panel had regard to the seriousness of this case, and the potential consequences for the teacher and has accepted that fairness to Mr Lingard is of prime importance. However, it considered that in light of Mr Lingard's waiver of his right to appear; by taking such measures referred to above to address that unfairness insofar as is possible; and

taking account of the inconvenience an adjournment would cause to the witnesses; that on balance, these are serious allegations and the public interest in this hearing proceeding within a reasonable time was in favour of the hearing continuing.

D. Summary of evidence

Documents

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

Section 1: Chronology, Anonymised Pupil List	Pages 2-8
Section 2: Notice of proceedings and Response	Pages 10-22
Section 3: NCTL Witness Statements	Pages 24-34
Section 4: NCTL Documents	Pages 36-81
Section: Teacher Documents	Pages 83-106

The panel members confirmed that they had read all of the documents in advance of the hearing.

Witnesses

The panel heard oral evidence from:

Witness A – School Principal of School Y (called on behalf of the NCTL)

E. Decision and reasons

The panel announced its decision and reasons as follows:

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

The panel confirms that it has read all the documents provided in the bundle in advance of the hearing.

Mr Lingard was employed by School X between September 2006 and 31 August 2012 and School Y between 1 September 2012 and 3 June 2013. It is alleged that Mr Lingard did not maintain appropriate professional boundaries with a pupil (not a pupil at School Y) by allowing her to have his personal mobile telephone number; exchanging personal text messages with the pupil; failing to take action when he received personal messages from her (including a picture message), hugged the pupil, met with her and without parental permission stored a picture of her on his computer. It is alleged that Mr Lingard's action

were sexually motivated. Mr Lingard was suspended on 16 November 2012 from School Y pending investigation and he subsequently resigned on 3 June 2013.

Findings of Fact

The panel's findings of fact are as follows:

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

Whilst employed by School X between September 2006 and 31 August 2012, and/or whilst employed by School Y between 1 September 2012 and 3 June 2013:

1. You failed to maintain appropriate professional boundaries with Pupil A, in that you:

a) provided Pupil A with your personal mobile telephone number,

b) sent Pupil A text messages from your mobile telephone number on one or more occasions,

c) failed to take appropriate action when you received text messages from Pupil A on one or more occasions, including messages which stated:

i. she wanted to kiss you, or words to that effect,

ii. she wanted you, or words to that effect,

iii. she loved you, or words to that effect,

iv. she did not want to lose you, or words to that effect,

d) failed to take appropriate action when you received an inappropriate picture message of Pupil A in a state of undress,

e) hugged Pupil A on one or more occasions,

f) allowed Pupil A to come to your house,

g) Told Pupil A she was "special" on one or more occasions,

h) Told Pupil A she was "beautiful" on one or more occasions,

i) Met with Pupil A on one or more occasions, including:

i. On 13 September 2012 during a hockey match at the Academy,

ii. On 28 September 2012 when Pupil A was due to be at hockey practice at the School;

j) without parental permission you:

i. stored a picture or pictures of Pupil A on your computer.

Mr Lingard, in the letter from his representative of 9 April 2014, confirmed his general admission to Allegation 1 (with 3 exceptions referred to below, 1(c), 1(h) and 1(j)) and that it amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In relation to allegation 1 (c), Mr Lingard indicated, however, in his letter of 3 December 2014 (Page 91-92) that, in relation to 1(c), he admitted the general allegation of failing to take appropriate action on receipt of text messages although he could not recall the detailed content of the text messages. The panel noted that it had not seen the text messages but the panel also noted the evidence at Page 79, from Pupil A's evidence to the police, and her acceptance that the content of the text messages included words to the effect that she wanted to kiss him and wanted him. Pupil A also accepted during her police interview (Page 75) that she told Mr Lingard she loved him. Pupil A's evidence to the police provided the panel with a sense of the nature of the text messages sent and received. Whilst taking account of the fact that the panel did not hear from Pupil A directly, the panel accepts Pupil A's evidence to the police that texts were sent and the panel also accepts, on the balance of probabilities, that the texts and the tone of them were along similar lines to the sentiments expressed in the letter which Mr Lingard accepts he wrote (at Pages 52-54 of the hearing bundle).

The panel heard further from the Principal of School X that Mr Lingard, as all staff had, received safeguarding training and he was aware that he should not have exchanged personal mobile telephone numbers with a pupil. The provision of his mobile telephone number, sending and receipt of text messages, some of which were late at night, amounted to a failure to maintain appropriate boundaries. The panel therefore finds allegation 1 (c) proven.

In relation to 1(h), Mr Lingard could not recall if he made such a statement but the panel took into account the evidence of Pupil A to the police when she confirmed (Page 75 and Page 79 of the hearing bundle) that Mr Lingard had told her on a text message that she was beautiful and talented. The panel considered Pupil A's evidence to the police to be credible. The panel therefore find, on the balance of probabilities, allegation 1(h) to be proven.

In relation 1(j), Mr Lingard partially admitted it and explained that the reason the photograph found was taken was because his own daughter was in the picture. The panel noted, however, the evidence of DC John Atkinson (Page 69 of the hearing bundle) which was that there were numerous images of Pupil A with Mr Lingard and his daughter, although it was apparent that Pupil A was the subject of the photographs. The panel therefore finds that retaining, without parental permission, a picture of Pupil A on Mr Lingard's computer did amount to a failure to maintain an appropriate professional

boundary. The panel considered the written response from Mr Lingard to this allegation and found it be vague. The panel preferred the written evidence of DC Atkinson which made clear that Pupil A was the subject of the photographs. The panel therefore finds allegation 1(j) to be proven

Whilst Mr Lingard admitted 1(d), the panel noted that Pupil A confirmed in her evidence to the police (Page 76 of the hearing bundle) that she did send a photograph of herself to Mr Lingard but she did not know why she did it. The panel had not seen the photograph itself but, on the basis of the evidence of Pupil A from the police, accepted that the photograph was sent and that it was a photograph of Pupil A in a state of undress. The panel further noted, however, that the police did not regard the photograph as indecent.

The panel therefore finds, on the balance of probabilities, that Allegation 1 is proven and Mr Lingard's conduct amounted to a failure to maintain appropriate professional boundaries.

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

2. Your actions set out at 1(a), and/or 1(b) and/or 1(c) and/or 1(d) and/or 1(e) and/or 1(f) and/or 1(g) and/or 1(h) and/or 1(i) and/or 1(j) were sexually motivated.

Mr Lingard does not accept that his conduct was sexually motivated.

The panel finds that the relationship between Pupil A and Mr Lingard went beyond the bounds of friendship although the panel finds there is insufficient evidence of sexual motivation for Mr Lingard's actions. The panel accepts Pupil A's evidence given during her interview with the police (Page 72 of the hearing bundle) that there was no sexual contact. However, Mr Lingard also accepts that he did not discourage Pupil A and nor did he report her obvious feelings for him. The panel also considered the contents of the letter at Pages 52-54 of the hearing bundle. Whilst the letter was expressive and emotional, there was no express sexual references and the panel was unable to find, on the evidence, that there was any sexual intention or motivation behind the letter. The panel also noted that, on the evidence before it, the letter did not actually appear to have been sent by Mr Lingard. Mr Lingard did accept that the letter was written by him and it showed that he was "far too emotionally attached".

The conclusion reached by the police in relation to the text messages was that the "pattern of contacts arises from an, albeit inappropriate, platonic relationship". The panel finds this significant.

The panel's view is that whilst the relationship went beyond the bounds of friendship, there was insufficient evidence of sexual motivation for Mr Lingard's actions.

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

The panel has found Allegation 1 proven which included a finding that Mr Lingard failed to maintain appropriate professional boundaries.

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 Lingard in relation to the facts found proven, involved breaches of the Teachers’ Standards. The panel considers that by reference to Part Two, Mr Lingard is in breach of the following standards:

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

The panel is satisfied that the conduct of Mr Lingard fell significantly short of the standards expected of the profession. The welfare of pupils is clearly of primary importance and that includes their emotional welfare. It was apparent to the panel from her police interview that Pupil A was emotionally attached to Mr Lingard and there was significant potential for damage and harm to be occasioned to her emotional welfare and well-being. Irrespective of whether there was a sexual motivation which the panel could not find on the facts, there was clearly potential for harm to Pupil A because of the nature of the relationship.

The Principal also confirmed to the panel during his oral evidence that he believed there was a “mutual infatuation” between Pupil A and Mr Lingard on the basis of the letter he had seen (Page 52-54 of the bundle) and which Mr Lingard accepted he had written albeit not sent (Page 88 of the hearing bundle). Mr Lingard accepted that the letter showed that he was “far too emotionally attached”.

The panel considered the evidence from the Principal that Mr Lingard had received safeguarding training and Mr Lingard in his written submissions also accepted that he had received such training. Moreover, Mr Lingard had indeed reported such a safeguarding incident on one occasion.

The panel has also considered whether Mr Lingard's conduct displayed behaviours associated with any of the offences listed on page 8 and 9 of the Guidance and the panel has found that none of these offences are relevant.

Accordingly, the panel is satisfied that Mr Lingard is guilty of unacceptable professional conduct.

The panel has taken into account how 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 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.

The panel therefore finds that Mr Lingard'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 Teacher Misconduct – The prohibition of Teachers advice and having done so has found a number of them to be relevant in this case, namely - the protection of pupils; the maintenance of public confidence in the profession; and declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Lingard, which involved serious findings that he had failed to observe appropriate professional boundaries and that he had engaged in a course of conduct over a period of time involving a pupil, there is a strong public interest consideration in the protection of pupils and upholding proper standards of conduct. Similarly, the panel considers that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Lingard were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel considered that a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Lingard was outside that which could reasonably be tolerated.

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 Mr Lingard.

In carrying out the balancing exercise the panel has considered the public interest considerations both in favour of and against prohibition as well as the interests of Mr Lingard. 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
- abuse of position or 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 there were sufficient mitigating factors to militate 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. There was no evidence that Mr Lingard's actions were not deliberate or that he was acting under duress although he alluded in his written submissions to having had a period of stress. The panel accepted the evidence of the Principal that Mr Lingard was an exceptional and gifted teacher but the panel did not consider that this, in any way, detracted from the seriousness of his conduct.

Mr Lingard did express regret for his actions and acknowledged that he had made errors of judgment although he gave no explanation as to why he engaged in the course of conduct in the first place. Moreover, Mr Lingard does not demonstrate any awareness at any point in his communications with the National College the effect his behaviour may have had on Pupil A.

The panel is of the view that prohibition is both proportionate and appropriate in this case. Mr Lingard's conduct was serious and involved a failure to maintain appropriate professional boundaries. The panel has decided that the public interest considerations outweigh the interests of Mr Lingard. The protection and well-being of pupils was a significant factor in forming that opinion as was the lack of recognition by Mr Lingard in his written responses to the allegations of the impact and effect his actions may have had on Pupil A. 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 was 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.

The panel considered that Mr Lingard has shown some insight into his actions and the effect his conduct may have had. However, Mr Lingard refers only to the effect on himself, his family and the profession and confirms his primary concern now to be for his family. He makes no mention of the effects on Pupil A and her family. It was apparent to the panel that Mr Lingard had received safeguarding training but had not demonstrated, through his actions and conduct, that he followed it. That said, he does express regret and remorse and in those circumstances, the panel felt the findings indicated a situation in which a review period would be appropriate and as such decided that it would be proportionate in all the circumstances for the prohibition order to be recommended with provisions for a review period of 3 years.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendations made to me by the panel in respect of both sanction and review.

The panel has found the facts of the case to be proven although the panel has also found that the teacher's actions were not sexually motivated. Nonetheless the findings in this case are serious ones and involve these behaviours :

- serious departure from the personal and professional conduct elements of the teachers' standards
- misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils.

The panel are clear that the teacher did not act under duress and that his actions were deliberate.

I have taken into account the need to be proportionate in this case. I have also taken into account the need to balance the public interest alongside the personal interests of the teacher. I have taken into account the guidance published by the Secretary of State.

I have also noted the positive comments made by the Principal about Mr Lingard.

I support the recommendation of the panel in this case. A prohibition order is an appropriate and proportionate response in this case.

I have also given careful consideration to the matter of a review period. The panel have set out their thinking in this area carefully and I agree with that for the reasons that are given.

I support a review period of 3 years. This will allow Mr Lingard time to reflect on the importance of following guidance and maintaining boundaries.

This means that Mr Michael Lingard is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the Prohibition Order to be set aside, but not until 18 March 2018, 3 years from the date of this order at the earliest. This is not an automatic right to have the Prohibition Order removed. If he does apply, a panel will meet to consider whether the Prohibition Order should be set aside. Without a successful application, Mr Michael Lingard remains barred from teaching indefinitely.

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

Mr Michael Lingard 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: Alan Meyrick



Date: 11 March 2015

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