



Teaching  
Regulation  
Agency

# **Mr Barnaby Lockyer: Professional conduct panel meeting outcome**

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

**July 2022**

## Contents

Introduction	3
Allegations	4
Preliminary applications	4
Summary of evidence	4
Documents	4
Statement of agreed facts	5
Decision and reasons	5
Findings of fact	5
Panel's recommendation to the Secretary of State	7
Decision and reasons on behalf of the Secretary of State	9

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

**Teacher:** Mr Barnaby Lockyer

**TRA reference:** 0019045

**Date of determination:** 12 July 2022

**Former employer:** Winchmore Tutors, working at Towers School, Ashford.

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 12 July 2022 by video link to consider the case of Mr Barnaby Lockyer.

The panel members were Dr Martin Coles (former teacher panellist – in the chair) Ms Clare Haines (teacher panellist) and Ms Susan Humble (lay panellist).

The legal adviser to the panel was Ms Anna Marjoram of Eversheds Sutherland (International) LLP solicitors.

In advance of the meeting, after taking into consideration the public interest and the interests of justice, the TRA agreed to a request from Mr Lockyer that the allegations be considered without a hearing. Mr Lockyer and the TRA provided a signed statement of agreed facts, and Mr Lockyer admitted unacceptable professional conduct and/or conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer from Fieldfisher LLP, Mr Lockyer or any representative on his behalf.

The meeting took place in private.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 22 June 2022.

It was alleged that Mr Barnaby Lockyer was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working at the School and whilst engaged as a tutor with Winchmore Tutors, he:

1. On or around 17 May 2019, drew one or more pictures of Pupil A;
2. On one or more occasions between 26 April 2018 and 7 June 2019, he made one or more of the following comments about Pupil A:
  - a. “Your hair is nice” or words to that effect;
  - b. “Has anybody told you that you’re cute” or words to that effect;
  - c. “You are sweet” or words to that effect; and
  - d. “Has anyone told you, you are funny” or words to that effect.

Mr Barnaby Lockyer admitted the facts of the allegations, and that the facts of the above allegations amount to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in the statement of agreed facts.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology, anonymised pupil list and list of key people – pages 1 to 2

Section 2: Notice of referral, response and notice of meeting – pages 3 to 20

Section 3: Statement of Agreed Facts and Presenting Officer representations – pages 21 to 25

Section 4: Teaching Regulation Agency documents – pages 26 to 47

Section 5: Teacher documents – pages 48 to 95

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

## **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr Barnaby Lockyer on 6 December 2021 and Fieldfisher LLP on 7 December 2021.

## **Decision and reasons**

The panel announced its decision and reasons as follows:

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

In advance of the meeting, the TRA agreed to a request from Mr Barnaby Lockyer for the allegations to be considered without a hearing. The panel had the ability to direct that the case be considered at a hearing if required in the interests of justice or in the public interest. The panel did not determine that such a direction was necessary or appropriate in this case.

Mr Barnaby Lockyer had been employed with Winchmore Tutors from 26 April 2018 as a Tutor. On 11 April 2019, Mr Lockyer accepted an assignment as a Tutor at the School.

On 20 May 2019, Winchmore Tutors were made aware of a potential safeguarding issue in relation to Mr Lockyer's conduct. A referral was made to the Local Authority Designated Officer on the same date.

On 7 June 2019, Mr Lockyer ceased his employment with Winchmore Tutors.

## **Findings of fact**

The findings of fact are as follows:

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

### **Whilst working at the School and whilst engaged as a tutor with Winchmore Tutors, you:**

#### **1. On or around 17 May 2019, drew one or more pictures of Pupil A;**

This allegation was admitted by Mr Lockyer in the statement of agreed facts. The panel found that this was supported by evidence of one drawing presented to the panel. This allegation was therefore found proved.

#### **2. On one or more occasions between 26 April 2018 and 7 June 2019, you made one or more of the following comments about Pupil A:**

- a. **“Your hair is nice” or words to that effect;**
- c. **“You are sweet” or words to that effect; and**
- d. **“Has anyone told you, you are funny” or words to that effect.**

These allegations were admitted by Mr Lockyer in the statement of agreed facts and were supported by evidence presented to the panel. The allegations were therefore found proved.

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

**2. On one or more occasions between 26 April 2018 and 7 June 2019, you made one or more of the following comments about Pupil A:**

- b. **“Has anybody told you that you’re cute” or words to that effect;**

Although this allegation was admitted by Mr Lockyer in the statement of agreed facts, the panel noted that Mr Lockyer had previously, and repeatedly, denied this allegation. The panel had concerns regarding the motivation for Mr Lockyer’s admission to this allegation.

Noting the above, and taking into account the lack of evidence available in the bundle to support this allegation, the panel considered on the balance of probabilities that this allegation was not proved.

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

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

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

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

Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by

- o 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel had regard to Keeping Children Safe In Education ("KCSIE") and noted Mr Lockyer's failings in a duty of care found at Part 1 of that document.

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

The panel also considered whether Mr Lockyer's conduct displayed behaviours associated with any of the offences in the list that begins on page 12 of the Advice. The panel found that none of these offences were relevant.

The panel took into account the way the teaching profession is viewed by others, the responsibilities and duties of teachers in relation to the safeguarding and welfare of pupils and considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The panel therefore found that Mr Lockyer's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of particulars 1, 2a, 2c, and 2d, proved, the panel further found that Mr Lockyer's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

## **Panel's recommendation to the Secretary of State**

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

In considering whether to recommend to the Secretary of State that a prohibition order is appropriate, the panel had to consider the public interest, the seriousness of the behaviour and any mitigation offered by Mr Lockyer and whether a prohibition order is necessary and proportionate. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and the interest of retaining the teacher in the profession.

In the light of the panel's findings against Mr Lockyer, which involved inappropriate comments regarding a vulnerable pupil, there was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils. Similarly, the panel considered that public confidence in the profession could be weakened if conduct such as that found against Mr Lockyer were not treated with seriousness when regulating the conduct of the profession.

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

The panel decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator; and the evidence presented showed Mr Lockyer to be conscientious and committed to achieving good outcomes for his students, many of whom were considered vulnerable or from difficult backgrounds.

The panel considered carefully the seriousness of the behaviour, noting that the Advice states that the expectation of both the public and pupils, is that members of the teaching profession maintain an exemplary level of integrity and ethical standards at all times.

The panel took further account of the Advice, which suggests that a panel will likely consider a teacher's behaviour to be incompatible with being a teacher if there is evidence of one or more of the factors that begin on page 15. In the list of such factors, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;

- abuse of position or trust (particularly involving vulnerable pupils);

- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);
- and

- violation of the rights of pupils.

However, the panel considered that Mr Lockyer's behaviour was at the lower end of the scale of unprofessional conduct.



Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, taking account of the public interest and the seriousness of the behaviour and the likely harm to the public interest were the teacher be allowed to continue to teach, the panel went on to consider whether there were mitigating circumstances.

There was no evidence that Mr Lockyer's actions were not deliberate or that he was acting under extreme duress.

The panel noted that no evidence had been presented to suggest that the behaviour set out in the allegations had occurred previously, and therefore the behaviour displayed appeared to be out of character.

The panel were provided with evidence in the bundle which demonstrated that Mr Lockyer had been honest and cooperative throughout the TRA proceedings and the School's own investigative process. Mr Lockyer had admitted his fault early in the process. The panel also considered that the information submitted to the panel by Mr Lockyer demonstrated that he possessed a high level of insight and remorse.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, the recommendation of no prohibition order would be both a proportionate and an appropriate response. Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case. The panel considered that the publication of the adverse findings it had made was sufficient to send an appropriate message to the teacher as to the standards of behaviour that are not acceptable, and the publication would meet the public interest requirement of declaring proper standards of the profession.

## **Decision and reasons on behalf of the Secretary of State**

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring

the profession into disrepute. In this case, the panel has found allegation 2, b not proven. I have therefore put those matters entirely from my mind.

The panel has made a recommendation to the Secretary of State that Mr Lockyer should not be the subject of a prohibition order. The panel has recommended that the findings of unacceptable professional conduct and conduct likely to bring the profession into disrepute, should be published and that such an action is proportionate and in the public interest.

In particular, the panel has found that Mr Lockyer 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 an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Lockyer, involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

The panel found that the conduct of Mr Lockyer fell significantly short of the standards expected of the profession.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself, whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct that may bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Lockyer, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Lockyer, which involved inappropriate comments regarding a vulnerable pupil, there was a strong

public interest consideration in respect of the safeguarding and wellbeing of pupils.” A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel’s comments on insight and remorse, which the panel sets out as follows, “The panel were provided with evidence in the bundle which demonstrated that Mr Lockyer had been honest and cooperative throughout the TRA proceedings and the School’s own investigative process. Mr Lockyer had admitted his fault early in the process. The panel also considered that the information submitted to the panel by Mr Lockyer demonstrated that he possessed a high level of insight and remorse.” I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, “public confidence in the profession could be weakened if conduct such as that found against Mr Lockyer were not treated with seriousness when regulating the conduct of the profession.”

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an “ordinary intelligent and well-informed citizen.”

I have considered whether the publication of a finding of unacceptable professional conduct, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Lockyer himself and the panel comment “The panel decided that there was a public interest consideration in retaining the teacher in the profession, since no doubt had been cast upon his abilities as an educator; and the evidence presented showed Mr Lockyer to be conscientious and committed to achieving good outcomes for his students, many of whom were considered vulnerable or from difficult backgrounds.”

A prohibition order would prevent Mr Lockyer from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel’s comments, “Given that the nature and severity of the behaviour were at the less serious end of the possible spectrum and, having considered the mitigating factors that were present, the panel determined that a recommendation for a prohibition order would not be appropriate in this case.”

I have given weight in my consideration of sanction, to the contribution that Mr Lockyer has made to the profession, along with the level of insight and remorse shown.

For these reasons, I have concluded that a prohibition order is not proportionate or in the public interest. I consider that the publication of the findings made would be sufficient to send an appropriate message to the teacher as to the standards of behaviour that were not acceptable and that the publication would meet the public interest requirement of declaring proper standards of the profession.

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

**Decision maker: Sarah Buxcey**

**Date: 18 July 2022**

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