



Teaching  
Regulation  
Agency

# **Mr Robin Kyne: Professional conduct panel outcome**

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

**September 2022**

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

<b>Teacher:</b>	Mr Robin Kyne
<b>Teacher ref number:</b>	9508311
<b>Teacher date of birth:</b>	6 October 1968
<b>TRA reference:</b>	18421
<b>Date of determination:</b>	22 September 2022
<b>Former employer:</b>	Leicester City Council

### **Introduction**

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 20 to 22 September 2022 by way of a virtual hearing, to consider the case of Mr Robin Kyne.

The panel members were Mr Paul Millett (lay panellist – in the chair), Ms Bev Williams (teacher panellist) and Ms Rachel Kruger (teacher panellist).

The legal adviser to the panel was Ms Josie Beal of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Michael O'Donohoe of Browne Jacobson LLP solicitors.

Mr Kyne was not present and was not represented.

The hearing took place by way of a virtual hearing in public (save for parts which were heard in private) and was recorded.

## Allegations

The panel considered the allegations set out in the notice of proceedings dated 20 July 2022 as amended by the presenting officer's applications set out below.

It was alleged that Mr Kyne was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute, in that whilst employed as a teacher and/or Assistant Principal at Regent College, Leicester, between August 2004 and December 2010:

1. On one or more occasions between 2005 and 2007 he failed to maintain appropriate professional boundaries and/or engaged in inappropriate physical contact and/or had an inappropriate relationship with Pupil A in that:
  - a) During a drama lesson/drama rehearsal he:
    - i. [REDACTED]
    - ii. [REDACTED]
  - b) During a drama lesson/drama rehearsal he:
    - i. [REDACTED]
    - ii. [REDACTED]
  - c) Exchanged personal contact details with Pupil A while she was still on the College roll;
  - d) Exchanged messages with her via text while she was still on the College roll;
  - e) *[Allegation discontinued]*;
  - f) On or about 21 August 2007, shortly after Pupil A [REDACTED], he messaged her on social media saying:
    - i. "you know I've always had a bit of a crush on you."
    - ii. Stating that he thought a present she was planning to give him "might be you in a thong or something."
    - iii. stating that Pupil A in a thong "features quite often in my dreams, yes."
    - iv. Asking "when you coming to see me"
  - g) Between 23 August 2007 and 3 September 2007, messaged Pupil A on social media on one or more occasions including:

- i. On 23 August 2007
  - (a) Asking Pupil A to send him a picture of herself;
  - (b) Telling her “there were times when I could have just pulled you behind the curtains in the Studio but I never would have - that would have crossed the line”
  - (c) Initiating a “quickfire quiz” with Pupil A, the questions in which were sexual.
  - (d) Asking Pupil A what she thought would happen if the two of them had sex
  - (e) Asking Pupil A “When are we going to do it? Under what circumstances?”
- ii. On 27 August 2007:
  - (a) Telling Pupil A “miss you, can’t wait to see you again, can’t wait to be inside you xx”.
  - (b) Telling Pupil A “you’re a sexy woman, I don’t care if you don’t do compliments.”
- iii. On 29 August 2007:
  - (a) To arrange to meet in a hotel for a weekend in November 2007.
  - (b) Asking Pupil A “will I get a pic this eve? To make up for the fact that you can’t make tomorrow?”
  - (c) Telling Pupil A “shame – sounds like a good opportunity for a top half shot!”
  - (d) Saying: “love you x”.
- iv. On 31 August 2007
  - (a) Telling Pupil A “always amazed by your bright eyes and your clear skin and imagine would it would be like to touch you and kiss you. Maybe I might get to today...”
  - (b) Asking Pupil A “tell me about your breasts, just to take my mind off Lithuania!”

- (c) Telling Pupil A “fascination with your boobs is a relatively new thing since the ability to actually kiss them has emerged”.
  - (d) Telling Pupil A “disappointed I didn’t get to see you today – wearing my sexy pants just in case!”
  - (e) Telling Pupil A “I’d love to be under the duvet with you!”
- v. On 1 September 2007
  - (a) Telling Pupil A “Right boo, I’ve got to go. Can’t wait to hold you tight...text me later.”
  - (b) Telling Pupil A “...and send me another pic, if the urge takes you! Who knows, I might send you one back!”
- vi. On 2 September 2007:
  - (a) Telling Pupil A “Even if it’s just for a quick coffee after work on Tuesday. I do want to see you. It doesn’t need to be anything heavy (though the thought of being able to grope you in a dark corner does appeal!)”
- vii. On 3 September 2007:
  - (a) Telling Pupil A “Still wish I was in bed with you.”
  - (b) Telling Pupil A “We could meet on [REDACTED] nowish as well...I appreciate neither of us want to be discovered in suspicious circumstances, baby, really I do. I’m just very impatient!”
  - (c) Telling Pupil A “You can have a fiver off me anytime you want...I feel a bit responsible for you now! Poor student!”
- h) In, or around, September 2007, he;
  - i. Met up with Pupil A;
  - ii. Kissed her;
  - iii. Touched her bottom.
- i) In or around October 2007, he had sexual intercourse with Pupil A.
- j) Between September 2007 and December 2007, asked and/or pressured Pupil A into purchasing and/or transporting drugs for him, including:
  - i. On or about 9 October 2007,

- (a) Telling Pupil A “Be sure to get plenty of drugs for half-term and some more for me when after you’ve gone back x”
  - (b) Telling Pupil A “get me loads of drugs.”
- ii. On or about 11 October 2007
  - (a) Saying to Pupil A “get me some E as well, even if you don’t want to take any – I’ll pay you back!”
- iii. On 17 October 2007,
  - (a) Telling Pupil A “if you do get drugs, let me know what and how many”,
  - (b) Telling Pupil A “I didn’t mean how much...I meant how many/much? If you get pills, let me know how many you’ve got, etc...”
  - (c) Asking Pupil A “any drugs news yet?”
- iv. On 29 October 2007:
  - (a) Telling Pupil A “Oh, and don’t forget the drugs stockpile!”
- v. On 1 November 2007:
  - (a) Asking Pupil A: “do we have drugs?”
  - (b) Telling Pupil A: “In my day it was an eight or a sixteenth...have we moved to metric with drugs?”
- vi. On 12 November 2007:
  - (a) Responding to a message from Pupil A expressing concern about her friend’s drug intake by asking “any word on our drugs yet?”
  - (b) Stating to Pupil A “and I can’t believe you can’t get drugs, and I quote ‘don’t worry, Robin, it’s easy [REDACTED]...’”
  - (c) in response to Pupil A stating that the thought of taking pills frightened her, stating “I promise I’ll look after you...you trust me, don’t you...I’d never let you come to any harm...I’m an old hand at this, trust me”,
  - (d) Stating to Pupil A “Drugs are like anything...you mishandle it, you overdo it, you pay the price...you’re sensible and you’re okay..”
- vii. On 13 November 2007:
  - (a) Saying to Pupil A “I’m assuming we have no drugs?”

(b) Asking Pupil A “Tonight, I would ask two things of you...a nice sexy pic and a final try for some drugs...”

2. His conduct as may be found proven at allegations 1 a -i was:
  - a) conduct of a sexual nature and/or;
  - b) sexually motivated;
3. His conduct as may be found proven at allegation 1 above occurred when you knew, or ought to have known, that Pupil A was vulnerable.

## **Preliminary applications**

The panel noted that since the date of the referral to the TRA in this case, new ‘Teacher misconduct: Disciplinary procedures for the teaching profession’ were published in May 2020 (the “May 2020 Procedures”). The panel understands that the earlier provisions contained within the ‘Teacher misconduct: Disciplinary procedures for the teaching profession’ updated in April 2018 (the “April 2018 Procedures”) apply to this case, given that those provisions applied when the referral was made. Although the panel has the power to direct that the May 2020 Procedures should apply in the interests of justice or the public interest, the panel had received no representations that this should be the case. For the avoidance of doubt, therefore, the panel confirms that it has applied the April 2018 Procedures in this case.

### Application for postponement/ application to proceed in the absence of the teacher

The panel was aware that, on 8 August 2022, Mr Kyne made a formal request to postpone the hearing for at least 12 months whilst he receives medical support and treatment. This application was considered at a case management hearing on 2 September 2022 at which it was concluded that there was insufficient justification to postpone the hearing.

Mr Kyne was not present at the substantive hearing nor was he represented. On 15, 16 and 19 September 2022 Mr Kyne sent emails to the TRA in which he requested, again, that the hearing be postponed on the basis that he was not well enough to attend. Mr Kyne also expressed that he wished to retract the previous information and evidence he had submitted and, in effect, start again.

Mr Kyne attached various documents to his email, including: (a) a statement of fitness for work indicating that Mr Kyne will be unfit for work between 12 September and 11 October 2022 as a result of [REDACTED]; (b) an online [REDACTED] test result; various screenshots of text messages which appeared to be from Mr Kyne’s doctors surgery/ the NHS referring to booking/attending appointments; (c) a screenshot of [REDACTED] and



screenshots from the internet regarding [REDACTED]; and (d) a letter referring to a hospital admission for flank pain.

The presenting officer opposed the application to postpone and made an application to proceed in the absence of Mr Kyne.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to in that advice, as derived from the guidance set down in the case of *R v Jones [2003] 1 AC 1* (as considered and applied in subsequent cases, particularly *GMC v Adeogba*).

The panel was satisfied that the Notice of Proceedings had been sent to Mr Kyne in accordance with the April 2018 Procedures.

The panel considered Mr Kyne's postponement application and the documentation he had provided. There was no independent medical evidence before the panel that Mr Kyne was unfit to attend the hearing. The statement of fitness for work did not comment on Mr Kyne's fitness to engage in the hearing, nor did it provide details as to Mr Kyne's current state of health. It merely confirmed that he was unfit to attend work. The remaining documents provided did not comprise independent medical evidence and, in the panel's view, was not compelling.

The panel concluded that Mr Kyne's absence was voluntary and that he was aware that the matter would proceed in his absence. It noted that, in his most recent correspondence to the TRA, Mr Kyne had not indicated the length of the postponement he was seeking (he had sought a 12 month postponement at the case management hearing) and the panel did not consider that a postponement would procure his attendance at a hearing.

The panel considered that it was in the public interest for the hearing to take place. It also considered the effect on the witnesses of any delay, in particular Pupil A, who was to be treated as a vulnerable witness.

In summary, the panel considered that there was insufficient justification to postpone the hearing. The panel was in receipt of a comprehensive bundle of documents, running to 834 pages, which contained written representations from Mr Kyne and, furthermore, the panel would be able to test the evidence of the TRA's witnesses.

Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr Kyne was neither present nor represented.

Application to amend/discontinue allegations

On the morning of the first day of the hearing, the presenting officer made an application to amend allegation 1(j)(iv)(b) to correct a typographical error and change “Ronin” to Mr Kyne’s first name, “Robin”. The allegation would therefore change from “*Stating to Pupil A “and I can’t believe you can’t get drugs, and I quote ‘don’t worry Ronin it’s easy [REDACTED]...’”*” to “*Stating to Pupil A “and I can’t believe you can’t get drugs, and I quote ‘don’t worry Robin it’s easy [REDACTED]...’”*”

The presenting officer also made an application to discontinue allegation 1(e) [REDACTED] on the basis that there was insufficient evidence to demonstrate that this allegation was proven.

On the morning of the second day of the hearing, the presenting officer made an application to amend allegations 1(g)(i)(b) and 1(g)(i)(e) as follows:

- 1(g)(i)(b) from “*there were times when I could have pulled you behind the curtains in the studio but that would have crossed a line*” to “*there were times when I could have just pulled you behind the curtains in the Studio but I never would have - that would have crossed the line*”
- 1(g)(i)(e) from “*so when are we going to do it? Under what circumstances?*” to “*When are we going to do it? Under what circumstances?*”

On both occasions, the panel was advised that it had the power to amend allegations in accordance with paragraph 4.56 of the April 2018 Procedures.

The panel considered that the proposed amendments were to correct typographical errors and to accord with the wording of the Facebook messages contained in the hearing bundle. The panel was therefore satisfied that the proposed amendments would not change the nature and scope of the allegations, nor did they amount to a material change to the allegations.

The panel noted that Mr Kyne had not been informed of the proposed amendments. However, it did not consider that granting the applications for the proposed amendments would cause any unfairness or prejudice to Mr Kyne on the basis that the amendments simply clarified the allegations and corrected typographical errors. Further, the panel did not consider that Mr Kyne would object to allegation 1(e) being discontinued, since he appeared to dispute the allegations against him.

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

#### Application to admit additional documents

On the first day of the hearing, the presenting officer made an application to admit an additional document. The additional document was a missing page from “[REDACTED]” script which was attached to Witness A’s witness statement. The presenting officer explained that a page had been missed in error.

The page had not been served in accordance with the requirements of paragraph 4.20 of the April 2018 Procedures. Therefore, the panel was required to decide whether the documents should be admitted under paragraph 4.25 of the April 2018 Procedures.

The panel heard representations from the presenting officer in respect of the application.

The panel considered the additional page was relevant. Accordingly, it was added to the bundle.

### Application for part of the hearing to be heard in private

At the case management hearing on 2 September 2022, it was agreed that parts of Pupil A's evidence would be given in private. These related to: [REDACTED]. This evidence was heard in private session.

The panel also considered Mr Kyne's email of 19 September 2022 in which he stated: "*I am also making an ancillary application for the hearing to be held in private*". The panel noted that Mr Kyne did not set out a formal application for the hearing to be held in private, nor did he provide reasons as to why he wanted the hearing to be held in private.

The panel did not consider that there was sufficient justification to hold the hearing in private and considered that it would be contrary to the public interest to do so. The panel concluded that the hearing should proceed in public, with parts being heard in private as set out above.

## 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 9 to 10
- Section 2: Notice of proceeding and response – pages 12 to 28
- Section 3: Teaching Regulation Agency witness statements – pages 28 to 92
- Section 4: Teaching Regulation Agency documents – pages 94 to 606
- Section 5: Teacher documents – pages 609 to 834

In addition, the panel agreed to accept the missing page from "[REDACTED]" Script.

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and the additional document that the panel decided to admit.

## Witnesses

The panel heard oral evidence from the following witnesses called by the TRA:

- Pupil A, [REDACTED]
- Witness A, [REDACTED]
- Witness B, [REDACTED]

## Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Kyne was employed at Regent College ('the College') between August 2004 and December 2010. He was initially employed as a drama teacher. It appears that, in or around September 2007, he was promoted to Assistant Principal.

In January 2019, Pupil A made a disclosure to Witness B at Leicester City Council ('the Council'), relating to her relationship with Mr Kyne after she had left the College. Mr Kyne was employed by the Council at the time of Pupil A's disclosure. The Council reported the matter to the TRA.

## Findings of fact

The findings of fact are as follows:

The panel found the allegations against you proved, for these reasons:

- 1. On one or more occasions between 2005 and 2007 you failed to maintain appropriate professional boundaries and/or engaged in inappropriate physical contact and/or had an inappropriate relationship with Pupil A in that:**
  - a) During a drama lesson/drama rehearsal you:**
    - i. [REDACTED]**
    - ii. [REDACTED]**

The panel heard oral evidence from Pupil A and considered her witness statement. Pupil A's recollection was that, during a drama lesson, she said something that Mr Kyne perceived as "*cheeky*", and Mr Kyne [REDACTED] Pupil A [REDACTED]. Pupil A described this as being "*in a way that your male friends might do in an attempt to be*

*physically flirty*". Mr Kyne's arms were just below Pupil A's [REDACTED]. Pupil A said that, after Mr Kyne had [REDACTED], he laughed and walked back into the classroom.

The panel also heard oral evidence from Witness A, who was a fellow pupil at the time. Witness A could not recall the incident as Pupil A described, but could recall Mr Kyne [REDACTED] Pupil A. Witness A did not specifically remember Mr Kyne [REDACTED] other pupils.

In his written submissions, Mr Kyne stated that he had no memory of this incident and, if he had touched Pupil A's [REDACTED], it would have been entirely unintentional and accidental.

The panel accepted that it was more likely than not that Mr Kyne did [REDACTED] Pupil A as described. Pupil A provided a consistent and clear account of the incident, and Witness A remembered Mr Kyne [REDACTED] Pupil A. The panel concluded that, as Mr Kyne [REDACTED] Pupil A with [REDACTED], it was likely that he would have [REDACTED].

The panel considered that allegation 1(a)(i)-(ii) amounted to a failure to maintain appropriate professional boundaries and inappropriate physical contact. The panel did not consider that a teacher should be [REDACTED], and a teacher [REDACTED] or put themselves in a position where they might do so accidentally.

The panel found allegation 1(a)(i)-(ii) proven on the balance of probabilities.

**b) During a drama lesson/drama rehearsal you:**

**i. [REDACTED]**

**ii. [REDACTED]**

Pupil A submitted that, during her second year at the College, the class was working on a play called "[REDACTED]". During the first scene of the play, Mr Kyne directed that a character Pupil A was playing should [REDACTED] with another character. The pupils were struggling to do the scene and found it uncomfortable. Pupil A submitted that to show them what the scene should look like, [REDACTED].

Witness A recalled this incident. She recalled performing "[REDACTED]" and recalled the incident Pupil A described.

Witness A explained that the pupils felt reticent and awkward about [REDACTED], and Mr Kyne said words to the effect of "*for goodness' sake, I'll show you.*" Mr Kyne then marched onto the stage and [REDACTED].

The panel considered Mr Kyne's written submissions, in which he stated that he had no direct memory of the incident. However, he recalled the class performing "[REDACTED]". [REDACTED].

The panel was provided with a copy of the script for "[REDACTED]". Whilst the appropriateness of the scene was not a matter for the panel to determine, it noted that, whilst there were no stage directions indicating that a [REDACTED], at the beginning of the page there was a line of dialogue spoken by the character Pupil A was playing, "[REDACTED]".

The panel concluded that it was more likely than not that this incident took place, as described by Pupil A and Witness A.

The panel considered that allegation 1(b)(i)-(ii) amounted to a failure to maintain appropriate professional boundaries and inappropriate physical contact. In the panel's view, it was wholly inappropriate for Mr Kyne to [REDACTED], he could and should have used a different method, such as explaining the scene verbally.

The panel found allegation 1(b)(i)-(ii) proven on the balance of probabilities.

**c) Exchanged personal contact details with Pupil A while she was still on the College roll;**

**d) Exchanged messages with her via text while she was still on the College roll;**

In her witness statement and oral evidence, Pupil A recalled Mr Kyne stopping her and exchanging telephone numbers with her whilst she was on the College roll. Pupil A said that she had been at an after school revision session for [REDACTED] and recalled the name of the teacher who had taken the session. She said that she passed through the drama studio corridor at about 4pm on her way back from the session and Mr Kyne stopped her and explained that he was obtaining pupils' numbers so that he could contact them about homework.

Pupil A stated that Mr Kyne did not text her very regularly whilst she was still at college; she thought he had sent her three messages the entire time. The messages were not about homework. However, during [REDACTED], the messages increased.

In his written submissions, Mr Kyne stated that Pupil A did not have his mobile phone number, nor did he have hers, until, at the earliest, September 2007 and possibly later. Mr Kyne stated that there was no way he would have shared his personal contact details with Pupil A before that point. Mr Kyne also submitted that he did not generally communicate with anyone via text and most of his communication would have been via speech on mobile and landline and via email.

The panel was not provided with any text messages. However, it considered Facebook messages contained in the bundle and noted messages between Mr Kyne and Pupil A in October 2007 in which they discussed the development of their relationship. At 9.22pm on 23 October 2007, Pupil A said: *“my liking for you has been pretty pathetic over the last year...”* At 9.27pm she said: *“I used to look at your facebook lots and re-read texts you sent me, really was pathetic!”* At 9.30pm Mr Kyne said: *“Little secret...I used to look at your Facebook all the time and re-read your texts (I still do..)”* The documentary evidence before the panel indicated a rapid acceleration in Pupil A and Mr Kyne’s relationship after she left College [REDACTED]. The panel considered that this exchange was referring to text messages previously exchanged between the two of them *“over the last year”* that they both *“used”* to look at and re-read.

The panel concluded that it was more likely than not that Mr Kyne and Pupil A exchanged telephone numbers whilst Pupil A was on the College roll, and that Mr Kyne had exchanged text messages with Pupil A whilst she was on the College roll.

The panel considered that allegations 1(c) and 1(d) amounted to a failure to maintain appropriate professional boundaries; it was not appropriate for Mr Kyne to exchange telephone numbers with Pupil A or exchange text messages with her whilst she was on the College roll and whilst she was his drama student.

The panel found allegations 1(c) and 1(d) proven on the balance of probabilities.

**e) [Allegation discontinued and not considered by the panel]**

**f) On or about 21 August 2007, shortly after Pupil A [REDACTED], you messaged her on social media saying:**

- i. “you know I’ve always had a bit of a crush on you.”**
- ii. Stating that you thought a present she was planning to give you “might be you in a thong or something.”**
- iii. stating that Pupil A in a thong “features quite often in my dreams, yes.”**
- iv. Asking “when you coming to see me”**

The bundle of documents provided to the panel contained 467 pages of messages exchanged between Pupil A and Mr Kyne on Facebook between 5 July 2007 and 16 January 2010 (the “Facebook messages”).

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 5.28pm on 21 August 2007, which stated: *“I’ll miss you, you know I will...you know I’ve always had a bit of a crush on you”*
- at 5.21pm on 21 August 2007, which stated: *“I thought it might be you in a thong or something!”* in response to a message from Pupil A stating that she had a present for him.
- at 5.24pm on 21 August 2007, which stated: *“features quite often in my dreams, yes”* in response to messages about Pupil A wearing a thong.
- at 5.25pm on 21 August 2007, which stated: *“so when you coming to see me?”*

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries. The panel also considered that Mr Kyne had an inappropriate relationship with Pupil A. [REDACTED]. The Facebook messages very quickly became graphic and sexual in nature. The panel’s view was that Mr Kyne’s relationship with Pupil A was rooted in the teacher/pupil relationship.

On examination of the documentary and oral evidence before it, the panel found allegation 1(f)(i)-(iv) proven.

**g) Between 23 August 2007 and 3 September 2007, messaged Pupil A on social media on one or more occasions including:**

**i. On 23 August 2007**

**(a) Asking Pupil A to send you a picture of herself;**

**(b) Telling her “there were times when I could have just pulled you behind the curtains in the Studio but I never would have - that would have crossed the line”**

**(c) Initiating a “quickfire quiz” with Pupil A, the questions in which were sexual.**

**(d) Asking Pupil A what she thought would happen if the two of you had sex**

**(e) Asking Pupil A “When are we going to do it? Under what circumstances?”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:



- at 10.35pm on 23 August 2007, which stated: *“Will you send me another pic?”* and at 12.40pm, which stated: *“...send me a pic to cheer me up and relieve me from the boredom!”*
- at 10.29pm on 23 August 2007, which stated: *“there were times when I could have just pulled you behind the curtains in the Studio but I never would have - that would have crossed the line!”*
- at 9.31pm on 23 August 2007, Mr Kyne messaged Pupil A and said: *“Right, quickfire quiz. I ask one question, you respond and ask another. We’ll start off with an old comedy favourite. Spit or swallow?”* A number of messages followed in which Mr Kyne and Pupil A asked each other sexual questions.
- at 10.37pm on 23 August 2007, which stated: *“if we had sex, what do you imagine would happen?”* Pupil A responded to ask what Mr Kyne meant, and he said: *“I mean, in your fantasy (which you must be having, cos I’ll admit I’m having it), how does it play out?”*
- at 10.51pm on 23 August 2007, which stated: *“I think we’ve exhausted every possible sex and drugs question there is. When are we going to do it? Under what circumstances?”*

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(i)(a)-(e) proven.

**ii. On 27 August 2007:**

**(a) Telling Pupil A “miss you, can’t wait to see you again, can’t wait to be inside you xx”.**

**(b) Telling Pupil A “you’re a sexy woman, I don’t care if you don’t do compliments.”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 8.58pm on 27 August 2007, which stated: *“Miss you, can’t wait to see you again, can’t wait to be inside you xx”*
- at 9pm on 27 August 2007, which stated: *“you’re a very sexy woman... I don’t care if you don’t do compliments”*

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(ii)(a) and (b) proven.

**iii. On 29 August 2007:**

**(a) To arrange to meet in a hotel for a weekend in November 2007.**

**(b) Asking Pupil A “will I get a pic this eve? To make up for the fact that you can’t make tomorrow?”**

**(c) Telling Pupil A “shame – sounds like a good opportunity for a top half shot!”**

**(d) Saying: “love you x”.**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 10.58pm on 29 August 2007, in which Mr Kyne sent a link to <http://www.beiderbeckes.com> and said “*It’s a direct train from [REDACTED]. Still up for it?*” In oral evidence, Pupil A told the panel that the link was to a hotel, which she believed was in [REDACTED]. The panel noted a further message from Mr Kyne to Pupil A, in response to her asking when they would meet, “*not sure of the exact date yet, but probably either 16<sup>th</sup> or 23<sup>rd</sup> of November*”. In a message at 10.17pm on 2 September 2007 Mr Kyne said: “[REDACTED], *16-18 November – put it in your diary!*” The panel concluded that it was more likely than not that Mr Kyne was messaging Pupil A to arrange to meet in a hotel for a weekend in November 2007.
- at 11.07pm on 29 August 2007, which stated: “*Will I get a pic this eve? To make up for the fact that you can’t make tomorrow?*”
- at 11.08pm on 29 August 2007, which stated: “*shame – sounds like a good opportunity for a top half shot!*”
- at 11.22pm on 29 August 2007, which stated: “*love you x*”

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(iii)(a)-(d) proven.

**iv. On 31 August 2007**

**(a) Telling Pupil A “always amazed by your bright eyes and your clear skin and imagine would it would be like to touch you and kiss you. Maybe I might get to today...”**

**(b) Asking Pupil A “tell me about your breasts, just to take my mind off Lithuania!”**

**(c) Telling Pupil A “fascination with your boobs is a relatively new thing since the ability to actually kiss them has emerged”.**

**(d) Telling Pupil A “disappointed I didn’t get to see you today – wearing my sexy pants just in case!”**

**(e) Telling Pupil A “I’d love to be under the duvet with you!”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 11.41am on 31 August 2007, which stated: *“always amazed by your bright eyes and your clear skin and imagine would it would be like to touch you and kiss you. Maybe I might get to today...”*
- at 3.12pm on 31 August 2007, which stated: *“tell me about your breasts, just to take my mind off Lithuania!”*
- at 3.47pm on 31 August 2007, which stated: *“Fascination with your boobs is a relatively new thing since the ability to actually kiss them has emerged”*
- at 3.56pm on 31 August 2007, which stated: *“Disappointed I didn’t get to see you today – wearing my sexy pants just in case!”*
- at 4.58pm on 31 August 2007, which stated: *“I’d love to be under the duvet with you!”*

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(iv)(a)-(e) proven.

**v. On 1 September 2007**

**(a) Telling Pupil A “Right boo, I’ve got to go. Can’t wait to hold you tight...text me later.”**

**(b) Telling Pupil A “...and send me another pic, if the urge takes you! Who knows, I might send you one back!”**

The panel considered the Facebook messages and noted a message from Mr Kyne to Pupil A:

- at 4.40pm on 1 September 2007, which stated: *“Right, boo, I’ve got to go. Can’t wait to hold you tight...text me later...and send me another pic if the urge takes you! Who knows, I might send you one back!”*

The panel considered that this message amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(v)(a) and (b) proven.

**vi. On 2 September 2007:**

**(a) Telling Pupil A “Even if it’s just for a quick coffee after work on Tuesday. I do want to see you. It doesn’t need to be anything heavy (though the thought of being able to grope you in a dark corner does appeal!)”**

The panel considered the Facebook messages and noted a message from Mr Kyne to Pupil A:

- at 11.41am on 2 September 2007, which stated: *“Even if it’s just for a quick coffee after work on Tuesday, I do want to see you. It doesn’t need to be anything heavy (through the thought of being able to grope you in a dark corner does appeal!). I know it’s dangerous, but part of me doesn’t care!”*

The panel considered that this message amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(vi)(a) proven.

**vii. On 3 September 2007:**

**(a) Telling Pupil A “Still wish I was in bed with you.”**

**(b) Telling Pupil A “We could meet on [REDACTED] nowish as well...I appreciate neither of us want to be discovered in suspicious circumstances, baby, really I do. I'm just very impatient!”**

**(c) Telling Pupil A “You can have a fiver off me anytime you want...I feel a bit responsible for you now! Poor student!”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 12.44pm on 3 September 2007: *“Still wish I was in bed with you”*
- at 3.49pm on 3 September 2007: *“We could meet on [REDACTED] nowish as well... I appreciate neither of us want to be discovered in suspicious circumstances, baby, really I do. I'm just very impatient!”*
- at 3.59pm on 3 September 2007: *“You can have a fiver off me anytime you want...I feel a bit responsible for you now” Poor student!”*

The panel considered that these messages amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship for the reasons set out above at allegation 1(f)(i)-(iv).

On examination of the documentary and oral evidence before it, the panel found allegation 1(g)(vii)(a)-(c) proven.

In summary, the panel found allegation 1(g)(i)-(vii) proven.

**h) In, or around, September 2007, you;**

- i. Met up with Pupil A;**
- ii. Kissed her;**
- iii. Touched her bottom.**

The panel considered the Facebook messages, which indicated that in September 2007, Pupil A and Mr Kyne met up and Mr Kyne kissed Pupil A and touched her bottom. In particular, the panel noted a message from Mr Kyne to Pupil A at 10.50am on 5 September 2007 which stated: *“Glad I touched your bum yesterday”*. The panel also noted a message from Pupil A at 10.19pm on 12 September 2007, which stated: *“still can't believe you kissed me still feels a tad surreal”*. Mr Kyne responded: *“I kissed you...yes! Felt your soft lips!”*

In her witness statement Pupil A stated that the first time she and Mr Kyne kissed was [REDACTED] but acknowledged that the Facebook messages suggest it was in September 2007.

My Kyne did not deny entering into a relationship with Pupil A, but submitted that it started at least seven months after she had ceased to be his student and the events that led to the relationship did not begin until at least five months after she had ceased to be enrolled at the College.

The panel considered that this amounted to a failure to maintain appropriate professional boundaries, inappropriate physical contact and an inappropriate relationship with Pupil A. As set out at allegation 1(f)(i)-(iv), the panel reached this conclusion as a result of the close proximity between Pupil A leaving College and the events described taking place. In the panel's view, there was a clear nexus between the teacher/pupil relationship and the relationship that followed between Mr Kyne and Pupil A. This caused the panel a great deal of concern.

On examination of the documentary and oral evidence before it, the panel found allegation 1(h)(i)-(iii) proven.

**i) In or around October 2007, you had sexual intercourse with Pupil A.**

Pupil A submitted that after she finished college, she entered into, what she would have called at the time, a "*relationship*" with Mr Kyne. The relationship lasted until [REDACTED]. Pupil A went to [REDACTED] and she would visit Mr Kyne when he was at work conferences. When Pupil A came back to [REDACTED], she would visit his house when his wife was away. Pupil A recalled that they first had sexual intercourse in October 2007. Initially, Pupil A told the police that this was [REDACTED]. However, she later realised, upon reviewing the Facebook messages, that it was in October 2007.

As set out above, Mr Kyne did not deny entering into a relationship with Pupil A.

It was apparent to the panel from the evidence before it, including sexually explicit Facebook Messages, that Mr Kyne had sexual intercourse with Pupil A in/around October 2007.

The panel considered that this amounted to a failure to maintain appropriate professional boundaries, inappropriate physical contact and an inappropriate relationship with Pupil A for the reasons set out at allegation 1(h)(i)-(iii).

On examination of the documentary and oral evidence before it, the panel found allegation 1(i) proven.

**j) Between September 2007 and December 2007, asked and/or pressured Pupil A into purchasing and/or transporting drugs for you, including:**

- i. **On or about 9 October 2007,**
- (a) Telling Pupil A “Be sure to get plenty of drugs for half-term and some more for me when after you’ve gone back x”**
- (b) Telling Pupil A “get me loads of drugs.”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 8.10pm on 9 October 2007, which stated: *“Be sure to get plenty of drugs for half term and some more for me when after you’ve gone back x”*
- at 8.20pm on 9 October 2007, which stated: *“miss you boo, txt me later... get me loads of drugs love you xx...”*

ii. **On or about 11 October 2007**

- (a) Saying to Pupil A “get me some E as well, even if you don’t want to take any – I’ll pay you back!”**

The panel considered the Facebook messages and noted a message from Mr Kyne to Pupil A:

- at 7.14pm on 11 October 2007, which stated: *“get me some E as well, even if you don’t want to take any – I’ll pay you back!”*

iii. **On 17 October 2007,**

- (a) Telling Pupil A “if you do get drugs, let me know what and how many”**

- (b) Telling Pupil A “I didn’t mean how much...I meant how many/much? If you get pills, let me know how many you’ve got, etc...”**

- (c) Asking Pupil A “any drugs news yet?”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 9.25pm on 17 October 2007: *“If you do get drugs, let me know what and how many...”*
- at 9.41pm on 17 October 2007: *“I didn’t mean how much... I meant how many/much? If you get pills, let me know how many you’ve got, etc...”*
- at 10.08pm on 17 October 2007: *“me too...any drugs news yet?”*

**iv. On 29 October 2007:**

**(a) Telling Pupil A “Oh, and don’t forget the drugs stockpile!”**

The panel considered the Facebook messages and noted a message from Mr Kyne to Pupil A:

- at 7.44pm on 29 October 2007: “...*Oh, and don’t forget the drugs stockpile!...*”

**v. On 1 November 2007:**

**(a) Asking Pupil A: “do we have drugs?”**

**(b) Telling Pupil A: “In my day it was an eighth or a sixteenth...have we moved to metric with drugs?”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 11.42am on 1 November 2007: “*do we have drugs?*”
- at 11.49am on 1 November 2007: “*a tenth! In my day it was an eighth or a sixteenth... have we moved to metric with drugs?*”

**vi. On 12 November 2007:**

**(a) Responding to a message from Pupil A expressing concern about her friend’s drug intake by asking “any word on our drugs yet?”**

**(b) Stating to Pupil A “and I can’t believe you can’t get drugs, and I quote ‘don’t worry, Robin, it’s easy [REDACTED]...’”**

**(c) in response to Pupil A stating that the thought of taking pills frightened her, stating “I promise I’ll look after you...you trust me, don’t you...I’d never let you come to any harm...I’m an old hand at this, trust me”**

**(d) Stating to Pupil A “Drugs are like anything...you mishandle it, you overdo it, you pay the price...you’re sensible and you’re okay..”**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 11.44am on 12 November 2007, which stated: “*she’s on the verge of being out of control, isn’t she... any word on our drugs yet?*”. The panel noted that this message was sent in response to a message from Pupil A, which stated: “*[redacted]’s gone in to hospital cause she’s been blacking out... she reckons*



*she's just ill but I think it's got mroe [sic] to do with how much coke [sic] she took last nite [sic]"*

- at 7.25pm on 12 November 2007, which stated: *"...and I can't believe you can't get drugs, and I quote "don't worry, Robin, it's easy [REDACTED]...". I'm disappointed!"*
- at 8.57pm on 12 November 2007, which stated: *"I promise I'll look after you... you trust me, don't you... I'd never let you come to any harm... I'm an old hand at this, trust me..."*
- at 8.59pm on 12 November 2007, which stated: *"Drugs are like anything... you mishandle it, you overdo it, you pay the price... you're sensible and you're okay..."*

**vii. On 13 November 2007:**

**(a) Saying to Pupil A "I'm assuming we have no drugs?"**

**(b) Asking Pupil A "Tonight, I would ask two things of you...a nice sexy pic and a final try for some drugs..."**

The panel considered the Facebook messages and noted messages from Mr Kyne to Pupil A:

- at 3.14pm on 13 November 2007, which stated: *"I mean, shall we stay in, go out, just stay in bed? What do you fancy? I'm assuming we have no drugs?"*
- at 5.57pm on 13 November 2007 which stated: *"Just calling in to say hello...our Christmas is coming Friday, baby x...Tonight, I would ask two things of you...a nice sexy pic and a final try for some drugs... oh, and your enduring love... you have mine... xxx"*

In respect of allegations 1(j)(i)-(vii), Pupil A explained that when she started university, Mr Kyne would pester her to get drugs for him. Mr Kyne would ask her to buy him cocaine, pills and MDMA. Pupil A felt that Mr Kyne would put a lot of pressure on her and threaten to cancel or break up with her if she did not do so. Pupil A stated that on a few occasions, she bought drugs in [REDACTED] and brought them with her on the train when she travelled to see him.

The panel concluded that Mr Kyne did ask and/or pressure Pupil A into purchasing and/or transporting drugs for him. The panel further considered that this amounted to a failure to maintain appropriate professional boundaries and an inappropriate relationship with Pupil A for the reasons set out at 1(f)(i)-(iv) above and on the basis that it is wholly inappropriate for a teacher to ask or pressure a former student to purchase or transport drugs for them.

On examination of the documentary and oral evidence before it, the panel found allegation 1(j)(i)(vii) proven.

## **2. Your conduct as may be found proven at allegations 1 a -i was:**

**a) conduct of a sexual nature and/or;**

**b) sexually motivated;**

Having found allegation 1(a)-(i) proven, the panel went on to consider whether Mr Kyne's conduct was conduct of a sexual nature and/or was sexually motivated.

The panel's attention was drawn to section 78 *Sexual Offences Act 2003* and to the cases of *Sait v The General Medical Council [2018]*, *Basson v General Medical Council [2018]* and *The General Medical Council v Haris [2020] EWHC 2518*.

The panel considered whether the conduct was sexually motivated. It noted that in *Basson* it was stated that *"A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a sexual relationship"*.

The panel further considered that in *Haris*, the High Court indicated that the criteria in *Basson* sets the bar too high. Foster J stated:

*"in the present case it is in my judgement clear beyond argument that the intimate touching of Patients A and B was sexual and that answering a question as to the motivation of the toucher, the only available answer, is yes, the motivation must have been sexual[...]"*

The panel noted that Mr Kyne did not deny having a sexual relationship with Pupil A, but maintained that, whilst she was a pupil, his conduct was not of a sexual nature or sexually motivated.

On examination of the evidence before it and on the balance of probabilities, the panel concluded that Mr Kyne's conduct as found proven at allegations 1(a), 1(b), 1(h) and 1(i) amounted to conduct of a sexual nature. In the panel's view, by its nature the conduct found proven was sexual.

On examination of the evidence before it and on the balance of probabilities, the panel concluded that Mr Kyne's conduct as found proven at allegations 1(a), 1(b), 1(f), 1(g), 1(h) and 1(i) was sexually motivated. The panel was of the view that there was no other plausible reason for this conduct. Mr Kyne's conduct ultimately led to a sexual relationship with Pupil A and the panel was provided with a large volume of sexually explicit messages exchanged between Mr Kyne and Pupil A.

There was not sufficient evidence before the panel to determine whether the conduct found proven at allegations 1(c) and (d) was conduct of a sexual nature and/or sexually motivated.

The panel found allegation 2(a) and (b) proven (save in respect of 1(c) and 1(d)).

**3. Your conduct as may be found proven at allegation 1 above occurred when you knew, or ought to have known, that Pupil A was vulnerable.**

[REDACTED]

Pupil A submitted that over the course of the next two years, Mr Kyne developed the situation into becoming a secret between the two of them and My Kyne began speaking to Pupil A via a social media networking site, MySpace, and obtained her phone number. Pupil A submitted that she also started speaking to Mr Kyne on Facebook, and from her understanding, she was not supposed to tell anyone about this. Pupil A described Mr Kyne as a “*saviour*” as he was the only person who knew [REDACTED]. In oral evidence, Pupil A described herself as being “off the rails” whilst at the College.

Mr Kyne denied that Pupil A was vulnerable, or that he knew or ought to have known she was vulnerable.

The panel considered the Facebook messages and noted messages between Mr Kyne and Pupil A referring to her [REDACTED]. The messages and wider evidence also referred to Pupil A [REDACTED] whilst she was at the College. The panel also noted a Facebook message from Pupil A at 10.33pm on 23 August 2007, which stated: [REDACTED] Mr Kyne responded, [REDACTED] Pupil A responded [REDACTED].

The panel concluded that it was likely that Mr Kyne was aware [REDACTED]. The Facebook Messages indicate that Mr Kyne was aware that [REDACTED].

In view of the totality of the evidence before the panel, the panel was of the view that Mr Kyne knew or ought to have known that Pupil A was vulnerable by virtue of the matter concerning [REDACTED] and by virtue of the wider issues concerning [REDACTED].

The panel found allegation 3 proven.

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

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

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

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

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

The panel noted that a number of the allegations took place outside the education setting in that Mr Kyne was communicating with Pupil A via social media and meeting up with her outside of College. However, the panel believed that this touched upon, and was clearly relevant to, Mr Kyne's profession as a teacher.

As referred to above, the panel was concerned about the nexus between Mr Kyne and Pupil A's teacher/pupil relationship and the relationship that followed. The panel considered that this was wholly inappropriate and unacceptable.

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

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

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on Mr Kyne's status as a teacher and would be likely to damage the public perception.

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

Having found the facts of allegations 1, 2 and 3 proved, the panel further found that Mr Kyne's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

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

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

The panel was aware that prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The panel had regard to the particular public interest considerations set out in the Advice and, having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public; the maintenance of public confidence in the profession; declaring and upholding proper standards of conduct; and that prohibition strikes the right balance between the rights of the teacher and the public interest, if they are in conflict.

The panel's findings against Mr Kyne were serious and involved: a failure to maintain appropriate professional boundaries; engaging in inappropriate physical contact with Pupil A; engaging in an inappropriate relationship with Pupil A; sexually motivated conduct; and conduct of a sexual nature. In light of this, there was a strong public interest consideration in respect of the protection of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Kyne was not treated with the utmost seriousness when regulating the conduct of the profession.

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

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Kyne.

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Kyne. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk
- abuse of position or trust (particularly involving pupils)
- any abuse of any trust, knowledge or influence gained through their professional position in order to advance a romantic or sexual relationship with a pupil or former pupil
- sexual misconduct, for example, 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

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

The panel found that Mr Kyne's actions were deliberate. Furthermore, there was no evidence to suggest that he was acting under extreme duress. In fact, the panel found Mr Kyne's actions to be calculated and motivated.

The panel acknowledged the information Mr Kyne provided in respect of his previous history and ability as a teacher and noted that he held senior positions in schools. However, the evidence provided did not satisfy the panel that Mr Kyne had exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector.

The panel also took account of the information Mr Kyne provided about his current state of health. The panel noted that no information was provided in respect of Mr Kyne's health at the time the allegations took place. The panel did not consider that the information in respect of Mr Kyne's current health constituted mitigation for his actions in 2007.

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

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Kyne of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Kyne. The seriousness of Mr Kyne's conduct was a significant factor in making this decision.

As set out previously, the panel had serious concerns about the development of Mr Kyne's relationship with Pupil A. The panel was of the view that Mr Kyne's conduct and relationship with Pupil A after she left College was directly related to the relationship they had whilst she was at College. Ultimately, the panel considered that Mr Kyne's actions amounted to an exploitation of trust; Pupil A was his student and she was vulnerable. Despite this, when Pupil A left College, their relationship quickly intensified and became highly sexualised.

Furthermore, whilst the panel acknowledged that Mr Kyne had engaged with the TRA process, it did not consider that he had done so in a constructive manner. In his written representations, Mr Kyne sought to besmirch Pupil A and Witness B and made unsubstantiated allegations about their character and the veracity of their evidence. In addition, Mr Kyne characterised himself as the victim and demonstrated a complete lack of insight and remorse into his conduct.

The panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

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

The Advice indicates that, where certain behaviours are proved, it is likely that the public interest will have greater relevance and weigh in favour of not offering a review period. The panel found the following behaviour to be relevant:

- serious sexual misconduct e.g. where the act was sexually motivated and resulted in, or had the potential to result in, harm to a person or persons, particularly where the individual has used their professional position to influence or exploit a person or persons

The panel concluded that Mr Kyne was responsible for serious sexual misconduct. His conduct was sexually motivated and had the potential to result in harm to Pupil A.

Furthermore, Mr Kyne used his professional position to influence or exploit Pupil A; the panel considered that the relationship only developed because Pupil A was Mr Kyne's student.

In addition to the serious nature of Mr Kyne's conduct, the panel was mindful that, despite having 15 years to reflect on his conduct, Mr Kyne had failed to demonstrate any remorse or insight. The panel did not consider that this position would change with the benefit of a review period.

The panel decided that the findings indicated a situation in which a review period would not be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended without provisions for a review period.

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

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

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

In this case, the panel has found some of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute. In this case, the panel has found some of the allegations not proven. I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Mr Kyne 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 finds that the conduct of Mr Kyne fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a failure to maintain appropriate professional boundaries; engaging in inappropriate physical contact with a pupil, engaging in an inappropriate relationship with a pupil, sexually motivated conduct and conduct of a sexual nature.

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 Kyne, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect pupils. The panel has observed, "Findings against Mr Kyne were serious and involved: a failure to maintain appropriate professional boundaries; engaging in inappropriate physical contact with Pupil A; engaging in an inappropriate relationship with Pupil A; sexually motivated conduct; and conduct of a sexual nature. In light of this, there was a strong public interest consideration in respect of the protection 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, "In addition to the serious nature of Mr Kyne's conduct, the panel was mindful that, despite having 15 years to reflect on his conduct, Mr Kyne had failed to demonstrate any remorse or insight". In my judgement, the lack of insight or remorse means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel observe, "The panel 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 Kyne was outside that which could reasonably be tolerated." I am particularly mindful of the finding of sexual motivated conduct with a vulnerable pupil in this case and the impact that such a finding has on the reputation of the profession.

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

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

I have also considered the impact of a prohibition order on Mr Kyne himself and the panel comment, “The panel acknowledged the information Mr Kyne provided in respect of his previous history and ability as a teacher and noted that he held senior positions in schools. However, the evidence provided did not satisfy the panel that Mr Kyne had exceptionally high standards in both personal and professional conduct or that he had contributed significantly to the education sector.”

A prohibition order would prevent Mr Kyne 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 concerning the lack of insight or remorse. The panel has said, “whilst the panel acknowledged that Mr Kyne had engaged with the TRA process, it did not consider that he had done so in a constructive manner. In his written representations, Mr Kyne sought to besmirch Pupil A and Witness B and made unsubstantiated allegations about their character and the veracity of their evidence. In addition, Mr Kyne characterised himself as the victim and demonstrated a complete lack of insight and remorse into his conduct.”

I have also placed considerable weight on the finding of that “The panel had serious concerns about the development of Mr Kyne’s relationship with Pupil A. The panel was of the view that Mr Kyne’s conduct and relationship with Pupil A after she left College was directly related to the relationship they had whilst she was at College. Ultimately, the panel considered that Mr Kyne’s actions amounted to an exploitation of trust; Pupil A was his student and she was vulnerable.”

The panel found that Mr Kyne was responsible for serious sexual misconduct, which had the potential to result in harm to Pupil A. Mr Kyne used his professional position to influence or exploit a vulnerable Pupil.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Kyne has made and is making to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published

decision, in light of the circumstances in this case, that is not backed up by full remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

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

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

I have considered the panel's comments "In addition to the serious nature of Mr Kyne's conduct, the panel was mindful that, despite having 15 years to reflect on his conduct, Mr Kyne had failed to demonstrate any remorse or insight. The panel did not consider that this position would change with the benefit of a review period."

I have considered whether not allowing a review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. These elements are the seriousness of the findings and the lack of insight or remorse.

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

**This means that Mr Robin Kyne 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 Kyne 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 Robin Kyne has a right of appeal to the King's Bench Division of the High Court within 28 days from the date he is given notice of this order.

A handwritten signature in black ink, appearing to read 'S Buxcey', with a horizontal line extending to the left of the first letter.

**Decision maker: Sarah Buxcey**

**Date: 28 September 2022**

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