



Teaching
Regulation
Agency

Mr Ezar Khan: Professional conduct panel meeting outcome

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

January 2023

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

Teacher: Mr Ezar Khan

Teacher ref number: 0365648

Teacher date of birth: 31 October 1974

TRA reference: 19342

Date of determination: 9 January 2023

Former employer: [redacted]

Introduction

A professional conduct panel ('the panel') of the Teaching Regulation Agency ('the TRA') convened on 9 January 2023 by way of a virtual meeting, to consider the case of Mr Ezar Khan.

The panel members were Mr Gamel Byles (teacher panellist – in the chair), Mr Stephen Chappell (lay panellist) and Ms Bev Williams (teacher panellist).

The legal adviser to the panel was Ms Abigail Reynolds of Birketts 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 Khan that the allegations be considered without a hearing. Mr Khan provided a signed statement of agreed facts and admitted unacceptable professional conduct and conduct that may bring the profession into disrepute. The panel considered the case at a meeting without the attendance of the presenting officer, Mr Michael Donohoe of Browne Jacobson, Mr Khan or any representative for Mr Khan.

The meeting took place in private by way of a virtual meeting.

Allegations

The panel considered the allegations set out in the notice of hearing dated 14 October 2022.

It was alleged that Mr Khan was guilty of unacceptable professional conduct and/or conduct that may bring the profession into, in that whilst employed at [redacted] in 2018:

1. He failed to maintain appropriate professional boundaries with Pupil A including by;
 - a) Kissing them on the cheek on or around 23 March 2018;
 - b) Buying them cigarettes;
 - c) Giving them his clothing to wear;
 - d) Meeting them outside of school hours on one or more occasions namely:
 - i. In his car;
 - ii. At a local shop;
2. When asked by the School about providing cigarettes to Pupil A, he stated that he had returned these to her at the end of the school day when in fact he had provided them to her when meeting as alleged at 1(d)(ii).
3. His conduct at allegation 2 was dishonest and/or lacked integrity.
4. Whilst engaged in a conversation with Individual A on an internet chatroom on or around February 2015 he:
 - a) Received and/or produced an image of a child aged approximately 4-5;
 - b) Wrote a note to accompany the image at allegation 4(a) with words to the effect of, 'this is to show [redacted] how much I love her your paki daddy xxx'
 - c) Took a photograph of himself holding his erect penis over the photograph;
 - d) Masturbated over the image at allegation 4(a);
 - e) Ejaculated onto the image at allegation 4(a);
 - f) Took a photograph of the image at allegation 4(a) with his semen on it;
 - g) Received and/or produced an image of a child aged approximately 14-15;

- h) Wrote a note to accompany the image at allegation 4(g) with words to the effect of, 'little 14 year old sister :), paki hating slag :) xxx'
 - i) Masturbated over the image at allegation 4(g);
 - j) Ejaculated onto the image at allegation 4(g);
 - k) Took a photograph of the image at allegation 4(g) with his semen on it;
5. His conduct at allegation 1 and/or 4 was conduct of a sexual nature and/ or sexually motivated.

Mr Khan admitted the allegations and that the admitted facts amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute, as set out in the response to the notice of hearing dated 14 December 2022 and the statement of agreed facts signed by Mr Khan on 5 January 2023.

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: Anonymised person list – page 4
- Section 2: Notice of Hearing– pages 6 to 20
- Section 3: Statement of Agreed and Disputed Facts - pages 22 to 30
- Section 4: TRA documents – pages 32 to 166
- Section 4: TRA witness statements – pages 168 to 182
- Section 5: Teacher documents – pages 184 to 190

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 Khan and the presenting officer on 5 January 2023.

Decision and reasons

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 Khan 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 Khan was employed as a teacher at [redacted] ('the School') until August 2018 when his fixed term contract ended having been suspended from March 2018.

Mr Khan was arrested in March 2018 and interviewed in respect of allegations involving Pupil A.

In early 2019, Mr Khan's computer was seized by the police. Mr Khan was subsequently interviewed in respect of images found on his computer.

In January 2020, a decision was made by the police and the CPS that no further action was needed in respect of any of the allegations that involved Mr Khan.

Findings of fact

The findings of fact are as follows:

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

The panel noted that within the response to the notice of hearing dated 14 December 2022 and in the statement of agreed facts signed by Mr Khan on 5 January 2023, Mr Khan admitted the facts of allegations 1 to 5.

Notwithstanding this, the panel made its own determination based on the evidence available to it.

- 1. You failed to maintain appropriate professional boundaries with Pupil A including by;**
 - a) Kissing them on the cheek on or around 23 March 2018;**
 - b) Buying them cigarettes;**

c) Giving them your clothing to wear;

d) Meeting them outside of school hours on one or more occasions namely:

i. In your car;

ii. At a local shop;

The panel noted that Mr Khan admitted the facts of allegation 1 in its entirety, as set out in the statement of agreed facts signed by Mr Khan on 5 January 2023.

Mr Khan's admission in the statement of agreed facts signed by Mr Khan on 5 January 2023 was in parts inconsistent with the account he provided throughout the police investigation and throughout the TRA process.

The panel noted Mr Khan's response at the investigation stage, in which he confirmed that he had kissed Pupil A, who was under the age of 16, on the cheek, although he stated that his intention was not sexual.

Mr Khan initially denied buying Pupil A cigarettes, but accepted that he may have been seen returning cigarettes to Pupil A, as it was custom in the School for teachers to place any cigarettes held by students into safe custody and return them at the end of the class or day. Mr Khan stated that there would have been occasions in which he loaned his jacket to students due to the cold; he was not giving clothing to anyone for them to keep, but providing the loan of a jacket for warmth as the school hall could be extremely cold.

Mr Khan explained that the School provided student support which could run from 3:30pm to 5:00pm; Mr Khan accepted that he may have been there with students during this time, but this was not outside of school hours. Mr Khan denied ever meeting with students in his car, however, he stated that it was school policy that teachers would transport students between the School sites and to and from PE activities. Mr Khan submitted that he was asked by management to ensure he had business insurance added to his car insurance policy, to cover the transport of pupils in his own vehicle. Mr Khan stated that no allegation regarding meeting students in a park was raised at any time during the police investigation and denied ever meeting students in a park.

The panel noted the witness statement of Child B, who was in the same foster care placement as Pupil A, and who submitted that she told her foster carer about "what was happening with Pupil A and Mr Khan" as she "did not feel it was right". Child B explained that originally she asked if seeing a teacher outside of school was allowed, to which her foster carer replied "no".

Child B submitted that on one occasion during the summer of 2018 at around 4/5pm, Pupil A said they should go [redacted]. Child B agreed as it was a lovely summer's night and was still light outside. Pupil A went into [redacted] to buy herself and Child B a drink,

and brought some food for [redacted]. At this point, Pupil A said that she had to meet up with someone before they went. Child B submitted that they then met up with Pupil A's teacher, "who wore a man bun".

Whilst walking, Pupil A told Child B not to tell anyone that they were going to meet her teacher. Child B was unaware of why Pupil A was meeting her teacher, and thought Pupil A may have been collecting some homework.

Child B submitted that upon arriving, instead of taking Child B and [redacted] with her, Pupil A went around the corner alone, next to the teacher's car. Child B could not see Pupil A at this point and recalled waiting for around 20 minutes with [redacted] and the dog. Child B stated that on a couple of occasions, she walked to the car to see how long Pupil A would be; the teacher seemed annoyed that she kept going over. When Pupil A returned, they went to the [redacted] and then returned home. Pupil A acted as if nothing had happened and did not tell anyone that she had met up with her teacher.

Child B submitted that, on a separate occasion, they bumped into Mr Khan who was coming out of the [redacted], as he was driving out of the turning at [redacted] and they were crossing the road. Mr Khan opened the window and began talking to them. They later met up with Mr Khan again at [redacted]; Child B believed that Pupil A and Mr Khan had arranged this when they were talking at [redacted]. Pupil A told Child B to take [redacted] to the park, however Child B did not do this as she felt it was irresponsible. Child B stated that she could not hear the conversation between Pupil A and Mr Khan as they were standing too far away. Pupil A then came up to Child B and said that Mr Khan was going to get them some cigarettes for free, and she did not have to pay for them. Mr Khan came out of the shop, handed the cigarettes to Pupil A, who then showed them to Child B.

Child B stated that she felt uncomfortable as "it did not feel right talking to a teacher outside of school".

Child B also submitted that Pupil A had received money from Mr Khan when she asked for it, although Child B did not see Mr Khan give money to Pupil A.

The panel noted the witness statement of Individual C, [redacted]. Individual C explained that the School was split across two sites, because one site was not big enough to hold all pupils. Individual C submitted that around 13 March 2018, she noticed that Pupil A kept turning up at [redacted], although she attended its sister site at [redacted].

Individual C submitted that she noticed Pupil A was turning up at [redacted] during the times Mr Khan was working. Individual C could not recall how often this was happening, but noted that it was enough to be noticeable. Individual C could not recall seeing Pupil A at [redacted] when Mr Khan was not working.

On one particular occasion, Individual C saw Mr Khan go out of the building and head out in his car. Individual C saw Pupil A leaning in to Mr Khan's car from the front passenger window. Individual C flashed her lights as she needed to get past; when they saw her flash her lights, Pupil A withdrew from the vehicle and Mr Khan drove off. The next day Individual C spoke to Mr Khan to address what she saw in regards to Mr Khan and Pupil A talking by the car. Individual C advised Mr Khan about the potential false allegations being made and that he needed to be careful. Individual C also reported this incident, although Individual C stated that at this point, she did not think anything untoward was going on and it did not ring any real alarm bells.

On Thursday 22 March 2018 at approximately 2:45pm, Individual C was at the front of the office when Pupil A arrived. Pupil A asked if her work had been marked and Individual C told her that she did not know. Pupil A then asked if Mr Khan was at the School, and Individual C explained that he was teaching. Individual C told Pupil A that all staff were in a meeting until 3pm. Pupil A said that she would wait. Individual D, [redacted], walked past and Individual C told her what Pupil A had said.

Individual C noticed that Pupil A was using her phone. Approximately 2/3 minutes after, Mr Khan came out of the reception door. Mr Khan went outside and over to Pupil A, who was standing with [redacted]. Individual C saw Mr Khan put his arm across Pupil A's upper body. Pupil A and Mr Khan were stood face to face, and then Mr Khan kissed Pupil A on the cheek.

Individual C said out loud "I can't believe what I've just seen" and turned around. Individual D said she had also seen it and was going to speak to the headteacher. Individual C then had no further involvement with this matter.

The panel noted the witness statement of Individual E. Individual E explained that the School recognised that Pupil A was [redacted]. Individual E described Pupil A as a "[redacted]".

On 22 March 2018, at around 3pm to 4pm, Individual E received a call from Individual D who raised concerns about Mr Khan. Individual D reported that she had witnessed Mr Khan place his arm around Pupil A and kiss her on the cheek. Individual E stated that he was shocked and followed school protocols by interviewing Mr Khan face to face the following day. Individual E reported that Mr Khan seemed upset at the time and alarmed. He agreed that he may have overstepped the mark. He did not deny that he had put his arm round Pupil A and kissed her, but stated that it was not sexual. He was concerned about Pupil A's relationship with [redacted].

Individual E attended a LADO meeting on 27 March 2018 to discuss the concerns raised and to confirm the actions to be taken. The police were also in attendance. Individual E found out additional information that raised further concerns about Mr Khan. It was discussed during this meeting that the police were to arrest Mr Khan. Mr Khan attended

the School the following day and was arrested. At this point, he was also suspended from the School.

Shortly after, Pupil A came into the School and was overheard telling students why Mr Khan had been arrested and asking “who grassed”. Individual E brought Pupil A into his office and told her this was not appropriate. Individual E then spoke to Individual D who told him that she had had a conversation with Mr Khan the previous year, summer 2017, concerning appropriate boundaries where he was allowing the Year 11 class to wear his hoody and touch his hair.

Individual E reported that he was not aware of whether Mr Khan had bought anything or given anything to Pupil A, other than the accusations of cigarettes. Individual E explained that teachers in the School are allowed to give students very small gifts of little value such as small items of stationery or boxes of chocolates/sweets; it is not appropriate for any teacher to give anything of value out of their own pocket.

The panel noted the witness statement of Individual F, [redacted]. Individual F submitted that Child B informed her that Pupil A had been meeting a teacher from the School and was besotted with him. Child B explained that she had been with Pupil A on a number of occasions when she had gone out with Pupil A and [redacted] and Pupil A had met up with the teacher, and that he had hid his car out of the way. Individual F asked Child B “what do you call him?” and Child B responded “Mr Khan”.

Child B also reported to Individual F that Mr Khan was buying cigarettes for Pupil A to give to a child at [redacted]. Individual F did not believe that Mr Khan was aware that they were for this child, and thought that Pupil A asked for them for herself. Individual F did not see Pupil A with cigarettes and did not think that she smoked. However, Individual F did know that Pupil A gave cigarettes to the other child as she had seen a text message between them mentioning cigarettes.

As a result of this conversation, Individual F contacted social services the following day. However, social services did not believe Child B. Due to such difficulties, Child B said that she would inform Individual F when Pupil A was going to meet Mr Khan. It was at this point that Individual G would start taking the dog for a walk and saw Pupil A with Mr Khan outside of the School.

Individual F explained that there was then a meeting with social services, and despite the senior social working still disbelieving Child B, the chair of the meeting made it clear that there was further evidence from the School to support what Child B had said. The police then also became involved in the matter.

Individual F explained that she soon realised that Pupil A was over familiar with people she did not know and could be flirtatious with them. Individual F stated that there was a number of other incidents with other older males.

The panel considered that Mr Khan's original explanations during the investigations were not credible, particularly in that the panel found that there was no credible reason for Mr Khan to be in the area of the shop at that particular time. The panel further considered that there was no justification for Mr Khan kissing Pupil A on the cheek when greeting Pupil A.

The panel attached appropriate weight to the witness evidence and considered that the evidence, along with Mr Khan's admissions in the statement of agreed facts, corroborated the allegations on the balance of probabilities.

The panel noted Mr Khan's admission of allegation 1 in its entirety.

The panel found allegations 1(a) to 1(d)(i-ii) proven.

2. When asked by the School about providing cigarettes to Pupil A, you stated that you had returned these to her at the end of the school day when in fact you had provided them to her when meeting as alleged at 1(d)(ii).

The panel noted Mr Khan's response during the investigation stage, in which he denied providing information dishonestly. Mr Khan stated that he had not supplied cigarettes to students.

The panel noted the witness statement of Individual E. Individual E submitted that, in order to carry out and prepare for the interview as outlined above, Individual E checked Pupil A's school records for any obvious concerns and came across a cause for concern around a different student [redacted] who had reported a conversation with another student that Mr Khan had given Pupil A cigarettes. When he challenged Mr Khan about this issue, he appeared confused and bemused. He denied it initially but then said he might have given Pupil A back her own cigarettes. Mr Khan maintained this explanation throughout until he admitted the allegation in the statement of agreed facts. Individual E explained that the School has a policy of confiscating all students' personal items at the start of the day and returning them at the end of the day. In light of this, and Mr Khan's response being plausible, Individual E was unable to challenge him further on this matter and felt the inappropriate behaviour with him and Pupil A was far more serious.

The panel noted the witness statement of Individual F. As outlined above, Child B reported to Ms Martin that Mr Khan was buying cigarettes for Pupil A. Individual F did not herself see Pupil A with cigarettes.

The panel considered Mr Khan's admission of allegation 2 within the statement of agreed facts dated 5 January 2023.

The panel found allegation 2 proven.

3. Your conduct at allegation 2 was dishonest and/or lacked integrity.

The panel noted Mr Khan's response during the investigation stage, in which it was stated that Mr Khan was truthful in respect of the above allegations and that there had been no dishonesty or lack of integrity. The panel noted, however, that Mr Khan later admitted allegation 3 in the statement of agreed facts signed by Mr Khan on 5 January 2023.

The panel firstly considered whether Mr Khan had failed to act with integrity. The panel considered the case of *Wingate & Anor v The Solicitors Regulation Authority*. The panel considered that Mr Khan had failed to act within the higher standards expected of a teacher by not informing the School that he had in fact provided Pupil A with cigarettes. The panel found that Mr Khan had not acted with integrity over his failure to disclose such information during the investigation stage.

The panel then considered whether Mr Khan had acted dishonestly in relation to the proven facts of allegation 2. In reaching its decision on this, the panel considered the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockford*. The panel firstly sought to ascertain the actual state of Mr Khan's knowledge or belief as to the facts and considered that Mr Khan was aware that his actions were dishonest.

In light of Mr Khan's later admissions in the statement of agreed facts signed by Mr Khan on 5 January 2023, the panel was of the view that Mr Khan deliberately misled the School in attempting to rely on the School's policy of returning cigarettes at the end of the day to cover up the fact that he had purchased cigarettes for Pupil A.

The panel found allegation 3 proven.

4. Whilst engaged in a conversation with Individual A on an internet chatroom on or around February 2015 you:

- a) Received and/or produced an image of a child aged approximately 4-5;**
- b) Wrote a note to accompany the image at allegation 4(a) with words to the effect of, 'this is to show [redacted] how much I love her your paki daddy xxx'**
- c) Took a photograph of you holding your erect penis over the photograph;**
- d) Masturbated over the image at allegation 4(a);**
- e) Ejaculated onto the image at allegation 4(a);**
- f) Took a photograph of the image at allegation 4(a) with your semen on it;**
- g) Received and/or produced an image of a child aged approximately 14-15;**

h) Wrote a note to accompany the image at allegation 4(g) with words to the effect of, 'little 14 year old sister :), paki hating slag :) xxx'

i) Masturbated over the image at allegation 4(g);

j) Ejaculated onto the image at allegation 4(g);

k) Took a photograph of the image at allegation 4(g) with your semen on it;

The panel noted the police report submitted as part of the bundle, in which it states that Mr Khan's computer was seized from his home address. There were 6 photographs uploaded from this exhibit. The report detailed each photo as follows:

- 1) on the screen of the laptop there was an image a girl with a chat room in the background. In front of the screen is a handwritten note "this is to show [redacted] how much I love her, your paki daddy";
- 2) an image of the same girl on the screen with an adult males penis in front of it;
- 3) the same image of a girl on the screen, with what appears to be semen on the actual computer screen;
- 4) a photograph of the laptop with a chatroom in the background and the same handwritten note "this is to show [redacted] how much I lover her your paki daddy";
- 5) an image of another girl with a handwritten note placed in front of the laptop "[redacted] racist paki hating slag", the image also has what appears to be semen on the computer screen;
- 6) an image of the young girl with the handwritten note "this is to show [redacted] how much I love her your paki daddy" and a male penis and a part of a body part with hair in front of the computer screen.

The panel noted that the photographs were found following the police seizing Mr Khan's computer and that, during a police interview, Mr Khan confirmed he took the images at the request of another user on the adult chatroom. Mr Khan denied having a sexual interest in children and stated that the images were not taken to cause anyone offence, alarm or distress.

The panel also noted that Mr Khan admitted allegations 4(a) to 4(k) in the statement of agreed facts signed by Mr Khan on 5 January 2023.

The panel found allegations 4(a) to 4(k) proven.

5. Your conduct at allegation 1 and/or 4 was conduct of a sexual nature and/ or sexually motivated.

Having found allegations 1 and 4 proved, the panel went on to consider whether Mr Khan's conduct was conduct of a sexual nature and/or was sexually motivated. The panel noted from the bundle of documents before it that Mr Khan initially denied that his conduct was sexually motivated, however later admitted allegation 5 in the statement of agreed facts signed by Mr Khan on 5 January 2023. Notwithstanding this, the panel made a determination based on the evidence available to it.

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".

On examination of the documents before the panel and consideration of the wider documentary evidence, the panel concluded that Mr Khan's conduct as set out in allegations 1 and 4 was sexually motivated. The panel was of the view that, in respect of allegation 1, there was no other reason for this conduct from a teacher towards a pupil.

The panel accepted Mr Khan's admissions.

The panel therefore found the facts of allegation 5 proven.

In summary, the panel found allegations 1 to 5 proven.

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

Having found all 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 Khan, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Khan 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 proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- 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 Khan amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The panel also considered whether Mr Khan's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

There has not been a conviction in this case, however the Advice states that where a teacher has been found by a panel to have displayed behaviours associated with any of the offence types shown in the list on page 12, but was not convicted of a relevant offence, a panel is likely to conclude that those behaviours would amount to "unacceptable professional conduct". The panel found that the offences of fraud or serious dishonesty and sexual activity were relevant.

The panel noted that allegations 2(d)(i)-(ii) and 4(a)-(k) took place outside the education setting. The panel believe that Mr Khan's conduct touched upon his profession as a teacher, given that, in respect of allegations 2(d)(i)-(ii), Pupil A was a pupil at the School and separately in respect of allegations 4(a)-(k), as he was engaging in inappropriate conversations online.

Accordingly, the panel was satisfied that Mr Khan 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 the individual's status as a teacher, potentially damaging the public perception. The panel therefore found that Mr Khan's actions constituted conduct that may bring the profession into disrepute.

Having found the facts of allegations 1(a)-(d), 2, 3, 4(a)-(k) and 5 proved, the panel further found that Mr Khan'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 were 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.

In the light of the panel's findings against Mr Khan which involved failing to maintain appropriate professional boundaries with Pupil A, there was a strong public interest consideration in respect of the protection of pupils, given the serious findings of inappropriate relationships with children and that Mr Khan had been sexually motivated in this conduct.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Khan 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 Khan was outside that which could reasonably be tolerated.

Notwithstanding the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Khan. The panel was mindful of the need to strike the right balance between the rights of the teacher and the public interest.

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 Khan. 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 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;
- failing 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);
- dishonesty or a lack of integrity, including the deliberate concealment of their actions or purposeful destruction of evidence, especially where these behaviours have been repeated or had serious consequences, or involved the coercion of another person to act in a way contrary to their own interests;
- collusion of concealment including:
 - lying to prevent the identification of wrongdoing.

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.

There was no evidence that Mr Khan's actions were not deliberate.

There was no evidence to suggest that Mr Khan was acting under extreme duress.

No evidence was submitted to attest to Mr Khan's previous history or ability as a teacher. Nor was any evidence submitted which demonstrates exceptionally high standards in both personal and professional conduct or that Mr Khan contributed significantly to the education sector.

No mitigation evidence was submitted on behalf of Mr Khan.

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 Khan 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 Khan. The lack of insight or remorse for his actions was a significant factor in forming that opinion. Accordingly, 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 there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as 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 his professional position to influence or exploit a person or persons / any sexual misconduct involving a child. The panel found that Mr Khan was responsible for failing to maintain appropriate professional boundaries with a pupil and engaging in a conversation with Individual A on an internet chatroom which was conduct of a sexual nature and/or sexually motivated, although the panel noted that there was no evidence that Individual A was a child or a pupil.

The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours include fraud or serious dishonesty. The panel found that Mr Khan was responsible for being dishonest and/or lacking integrity.

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 all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

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

In particular, the panel has found that Mr Khan 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 proper and professional regard for the ethos, policies and practices of the school in which they teach, and maintain high standards in their own attendance and punctuality.
- 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 Khan amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include findings of failing to maintain appropriate professional boundaries with Pupil A, sexually motivated conduct and dishonesty on the part of a teacher.

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 Khan, 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 children/safeguard pupils. The panel has observed, “The panel found that Mr Khan was responsible for failing to maintain appropriate professional boundaries with a pupil and engaging in a conversation with Individual A on an internet chatroom which was conduct of a sexual nature and/or sexually motivated, although the panel noted that there was no evidence that Individual A was a child or a pupil.” 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 decided that the public interest considerations outweighed the interests of Mr Khan. The lack of insight or remorse for his actions was a significant factor in forming that opinion.” In my judgement, the lack of insight 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 considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Khan was not treated with the utmost 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 Mr Khan himself. A prohibition order would prevent him from teaching and would also clearly deprive the public of his contribution to the profession for the period that it is in force.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Khan has made 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 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 "The Advice indicates that there are behaviours that, if proved, would militate against the recommendation of a review period. These behaviours include serious sexual misconduct, such as 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 his professional position to influence or exploit a person or persons / any sexual misconduct involving a child." The panel also observed, "The Advice also indicates that there are behaviours that, if proved, would have greater relevance and weigh in favour of a longer review period. One of these behaviours include fraud or serious dishonesty. The panel found that Mr Khan was responsible for being dishonest and/or lacking integrity."

I have considered whether 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 Mr Khan's failure to maintain appropriate professional boundaries with Pupil A, his sexually motivated conduct and his dishonesty.

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 Ezar Khan 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 Khan 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 Ezar Khan 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.



Decision maker: John Knowles

Date: 11 January 2023

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