



Teaching  
Regulation  
Agency

# **Mr Andrew Lear Professional conduct panel meeting outcome**

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

**July 2023**

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

<b>Teacher:</b>	Mr Andrew Lear
<b>Teacher ref number:</b>	0563981
<b>Teacher date of birth:</b>	19/01/1968
<b>TRA reference:</b>	19019
<b>Date of determination:</b>	17 July 2023
<b>Former employer:</b>	Northamptonshire Music and Performing Arts Trust, Northampton

### **Introduction**

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 17 July 2023 on Microsoft Teams, to consider the case of Mr Andrew Lear.

The panel members were Mr Paul Millett (lay panellist – in the chair), Ms. Jackie Hutchings (teacher panellist) and Miss Louisa Munton (teacher panellist).

The legal adviser to the panel was Mr Jermel Anderson of Blake Morgan 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 Andrew Lear that the allegation be considered without a hearing. Mr Andrew Lear provided a signed statement of agreed facts and admitted conviction of a relevant offence. The panel considered the case at a meeting without the attendance of the presenting officer Ms Louise Murphy-King or Mr Andrew Lear.

## **Allegations**

The panel considered the allegations set out in the notice of meeting dated 04 May 2023.

It was alleged that Mr Andrew Lear was guilty of having been convicted of a relevant offence, in that:

The allegations against you, which will be considered by the panel, are:

You have been convicted of a relevant offence at any time in that:

1. On 31 March 2021, you were convicted of:

- a) Possessing indecent photographs of children on 8 January 2020, namely 10 Category A images, contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988.
- b) Possessing indecent photographs of children on 8 January 2020, namely 9 Category B images, contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988.
- c) Possessing indecent photographs of children on 8 January 2020, namely 3 Category C images, contrary to Section 160(1), (2A) and (3) of the Criminal Justice Act 1988.

The teacher's admission of facts.

The teacher's admission of conviction of a relevant offence.

## **Preliminary applications**

There were no preliminary applications.

## **Summary of evidence**

### **Documents**

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

Section 1: Chronology and List of Key People – pages 3 to 4

Section 2: Notice of Referral and Notice of Meeting – pages 5 to 13

Section 3: Statement of Agreed Facts and Presenting Officer Representations – pages 14 to 16

Section 4: Teaching Regulation Agency documents – pages 17 to 82

## Section 5: Teacher documents – pages 83 to 85

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

### **Statement of agreed facts**

The panel considered a statement of agreed facts which was signed by Mr Andrew Lear on 17 November 2022.

No summary of the evidence given is required, as evidence that was material to the panel's decision should be captured in the reasons given for it (below)

### **Decision and reasons**

The panel announced its decision and reasons as follows:

The panel carefully considered the case and reached a decision.

In advance of the meeting, the TRA agreed to a request from Mr Andrew Lear 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 Andrew Lear was employed by Northamptonshire Music and Performing Arts Trust in Northampton as an Instrumental Music Teacher. In this capacity, he worked across several primary schools. The role that he undertook began in September 2006. On 08 January 2020, he was found by police to be in possession of indecent images of children and was therefore suspended from work the following day.

A police interview took place on 13 January 2020, after which Mr Andrew Lear resigned from his position and a referral was made to the Teaching Regulation Agency.

The panel considered the role that he was performing and confirmed that he fell within the jurisdiction of the TRA.

Mr Andrew Lear was convicted at Northampton Magistrates' Court of three separate offences of possessing indecent photographs of children on 31 March 2021 and was subsequently sentenced for this at Northampton Crown Court. The sentence that he received was for a period of four months' imprisonment with each offence to run concurrently, suspended for a period of 18 months. A 20-day rehabilitation activity requirement was also ordered. Additionally, the Court imposed a Sexual Harm Prevention Order which was put in place for a period of 7 years.

## Findings of fact

The findings of fact are as follows:

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

**1. On 31 March 2021, you were convicted of:**

**a) Possessing indecent photographs of children on 8 January 2020, namely 10 Category A images, contrary to Section 160 (1), (2A) and (3) of the Criminal Justice Act 1988.**

**b) Possessing indecent photographs of children on 8 January 2020, namely 9 Category B images, contrary to Section 160 (1), (2A) and (3) of the Criminal Justice Act 1988.**

**c) Possessing indecent photographs of children on 8 January 2020, namely 3 Category C images, contrary to Section 160 (1), (2A) and (3) of the Criminal Justice Act 1988.**

The allegation was admitted and was supported by evidence presented to the panel within the bundle, the allegation was therefore, found proved.

The panel have seen the agreed statement of facts where you made full admissions to the above offences.

The panel have also seen the PNC record, Memorandum of Conviction, the Court Transcript and the relevant police disclosure document.

The panel were therefore satisfied that the allegation is proved.

## Findings as to conviction of a relevant offence

Having found the allegation proved, the panel went on to consider whether the facts of those proved allegations amounted to 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 found that this was a relevant offence.

The panel found that the offence of making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child was relevant.

The panel was satisfied that the conduct of Mr Andrew Lear in relation to the facts it found proved involved breaches of the Teachers’ Standards. The panel considered that by reference to Part 2, Mr Andrew Lear 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, observing proper boundaries appropriate to a teacher’s professional position

The Panel considered that the specific act of possession of indecent images itself, amounted to a boundary issue due to the nature of the images and the safeguarding principles as established within the teaching profession.

- having regard for the need to safeguard pupils’ well-being, in accordance with statutory provisions
- not undermining the rule of law
- 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 also noted that they would expect Mr Andrew Lear to have working knowledge of relevant documentation for education professionals such as *KCSIE (Keeping Children Safe in Education)*, *Working Together to Safeguard Children* and *Guidance for Safer Working Practices*. It was felt that Mr Andrew Lear’s behaviour was a clear breach of the principles established within this guidance.

The panel also took account of the way the teaching profession is viewed by others. The panel considered that Mr Andrew Lear's behaviour in committing the offence could affect public confidence in the teaching profession, given the influence that teachers may have on pupils, parents and others in the community.

The panel noted that Mr Andrew Lear's behaviour ultimately led to a sentence of imprisonment, (albeit that it was suspended), which was indicative of the seriousness of the offences committed.

Ultimately, this was a case of an offence involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, which the Advice states is likely to be considered a relevant offence.

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

Given the panel's findings in respect of a conviction of a relevant offence, 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. 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 public interest*

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 protection of pupils/the protection of other members of the public/the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct.

In light of the panel's findings against Mr Andrew Lear, which involved a relevant conviction for possession of indecent images, there was a strong public interest consideration in the maintenance of public confidence in the profession. The panel felt that the public confidence would be significantly undermined should Mr Andrew Lear be able to remain within the profession. It considered that an ordinary intelligent citizen would be particularly concerned if this were to happen. It also noted that within the judge's remarks, specific mention was made of the "persistence of offending" undertaken by Mr. Andrew Lear which further demonstrated the severity of his conduct and the incompatibility of his behaviour and what is expected of a teacher.



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

### *Proportionality*

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, considering the effect that this would have on Mr Andrew Lear.

### *The Advice*

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 Andrew Lear. 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 are relevant in this case are:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- the commission of a serious criminal offence, including those that resulted in a conviction or caution, paying particular attention to offences that are 'relevant matters' for the purposes of the Police Act 1997 and criminal record disclosures;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- sexual misconduct, e.g. 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;
- any activity involving viewing, taking, making, possessing, distributing, or publishing any indecent photograph or image, or indecent pseudo photograph or image, of a child, or permitting such activity, including one-off incidents;
- failure to act on evidence that indicated a child's welfare may have been at risk e.g., failed to notify the designated safeguarding lead and/or make a referral to children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE – Keeping Children Safe in Education)

### *Mitigation*

Even though 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 Andrew Lear's behaviours were not deliberate.

The panel considered the fact that Mr Andrew Lear has undertaken counselling that is directly relevant to his offending as mitigation. It also acknowledged that he cooperated with the TRA and signed an agreed statement of facts. It was also noted that he entered a guilty plea at his first hearing in the Magistrates' Court.

The panel saw no evidence that Mr Andrew Lear was previously subject to disciplinary proceedings/warnings.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition and considered 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 the panel's findings was sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Andrew Lear 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 Andrew Lear. The nature and seriousness of his offending 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.

### *Review*

The panel went on to consider whether or not it would be appropriate to recommend that a review period of the order should be considered. 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. The relevant behaviours in this case include:

- 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;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents;

The panel found that Mr Andrew Lear was responsible for engaging in activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents by virtue of the nature of his offending, it therefore considered this a significant factor in determining whether or not to impose a review period.

The panel also found that, by definition, the possession of indecent images of children amounts to serious sexual misconduct.

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 provision 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 a relevant conviction.

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

In particular, the panel has found that Mr Lear 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, observing proper boundaries appropriate to a teacher's professional position

The Panel considered that the specific act of possession of indecent images itself, amounted to a boundary issue due to the nature of the images and the safeguarding principles as established within the teaching profession.

- having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- not undermining the rule of law
- 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 Lear involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE) and/or involved breaches of Working Together to Safeguard Children.

The panel finds that the conduct of Mr Lear fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include a finding of relevant convictions for possessing indecent photographs of children which ultimately led to a sentence of imprisonment (albeit suspended).

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 a relevant conviction, 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 Lear, 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, "...within the judge's remarks, specific mention was made of the "persistence of offending" undertaken by Mr. Andrew Lear which further demonstrated the severity of his conduct and the incompatibility of his behaviour and what is expected of a teacher." Given this, and the nature of Mr Lear's offences involving possession of indecent images of children, 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 considered the fact that Mr Andrew Lear has undertaken counselling that is directly relevant to his offending as mitigation. It also acknowledged that he cooperated with the TRA and signed an agreed statement of facts. It was also noted that he entered a guilty plea at his first hearing in the Magistrates' Court." The panel goes on to say that it, "...saw no evidence that Mr Andrew Lear was previously subject to disciplinary proceedings/warnings."

However, the panel also states that, "There was no evidence that Mr Andrew Lear's behaviours were not deliberate."

No other evidence is recorded as to whether Mr Lear has demonstrated remorse for his behaviour or to the degree of insight into his actions he has gained. In my judgement, this lack of evidence of full remorse and 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 that "In light of the panel's findings against Mr Andrew Lear, which involved a relevant conviction for possession of indecent images, there was a strong public interest consideration in the maintenance of public confidence in the profession. The panel felt that the public confidence would be significantly undermined should Mr Andrew Lear be able to remain within the profession." I am particularly mindful of the finding of conviction for multiple relevant offences 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 a relevant conviction, 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 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 a relevant conviction, 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 Lear himself. No evidence is recorded by the panel as to Mr Lear's abilities as an educator or whether he was able to make a valuable contribution to the profession.

A prohibition order would prevent Mr Lear 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 absence of evidence of full insight and remorse. I have also placed considerable weight on the finding of the panel that "...prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Andrew Lear. The nature and seriousness of his offending was a significant factor in forming that opinion."

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Lear 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 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.

In doing so, 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. The relevant behaviours in this case include:

- 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;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents;

I have considered the panel's comments that, "The panel found that Mr Andrew Lear was responsible for engaging in activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child, including one off incidents by virtue of the nature of his offending, it therefore considered this a significant factor in determining whether or not to impose a review period." It goes on to state that, "The panel also found that, by definition, the possession of indecent images of children amounts to serious sexual misconduct."

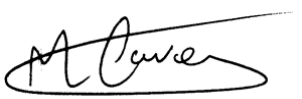
I have considered whether not allowing a review period reflects the seriousness of the findings and is proportionate to achieve the aim of maintaining public confidence in the profession. In this case, factors mean that allowing a review period is not sufficient to achieve the aim of maintaining public confidence in the profession. This element is the seriousness of the finding of convictions for possessing indecent photographs of children.

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 Andrew Lear 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 allegation found proved against him, I have decided that Mr Lear 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 Lear 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 'M. Cavey', enclosed in a thin black rectangular border.

**Decision maker: Marc Cavey**

**Date: 19 July 2023**

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