



Teaching  
Regulation  
Agency

# **Mr Liam O’Leary: Professional conduct panel outcome**

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

**March 2024**

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

<b>Teacher:</b>	Mr Liam O’Leary
<b>Teacher ref number:</b>	1137028
<b>Teacher date of birth:</b>	10 March 1986
<b>TRA reference:</b>	18619
<b>Date of determination:</b>	27 March 2024
<b>Former employer:</b>	Beck Primary School, Sheffield

### **Introduction**

A professional conduct panel (‘the panel’) of the Teaching Regulation Agency (‘the TRA’) convened on 25 to 27 March 2024 by way of a virtual hearing, to consider the case of Mr Liam O’Leary.

The panel members were Mr Paul Millett (lay panellist – in the chair), Ms Antonia Jackson (teacher panellist) and Ms Sarah Daniel (lay panellist).

The legal adviser to the panel was Ms Maddie Taylor of Birketts LLP solicitors.

The presenting officer for the TRA was Mr Alexander Barnfield of Capsticks LLP solicitors.

Mr O’Leary was not present and was not represented.

The hearing took place by way of a virtual hearing in public and was recorded.

## Allegations

The panel considered the allegations set out in the Notice of Proceedings dated 23 January 2024.

It was alleged that Mr O'Leary was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that, whilst working as a supply teacher at Beck Primary School:

1. Between around 1 November 2013 and 31 December 2013 in relation to Child A, who he knew or ought to have known was under the age of 16, he:
  - a) Engaged in the exchange of sexually explicit messages with Child A; and/or
  - b) Caused and/or allowed Child A to send him indecent images of herself; and/or
  - c) Engaged in one or more sexually explicit conversations with Child A; and/or
  - d) On one or more occasions, engaged in kissing and/or sexual touching with Child A; and/or
  - e) On one or more occasions, engaged in oral sex and/or penetrative sexual activity with Child A

The panel noted that Mr O'Leary admitted allegations 1(a), 1(b) and 1(c), but denied allegations 1(d) and 1(e), as set out in his representations dated 5 November 2023 at page 170 of the bundle.

## Preliminary applications

### Application to admit additional documents and submissions regarding sufficient notice of hearing

The panel considered a preliminary application from the presenting officer for the admission of additional documents to specifically deal with the question as to whether Mr O'Leary had been served with the Notice of Proceedings in line with the Teacher misconduct: Disciplinary procedures for the teaching profession April 2018 (the '2018 Procedures').

The presenting officer's additional documents were a service bundle comprising of 26 pages, a two-page document evidencing a TRA caseworker providing Mr O'Leary with a password to access an electronic version of the Notice of Proceedings and a two-page document evidencing the TRA's efforts to post a hard-copy version of the Notice of Proceedings to Mr O'Leary.

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

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

The panel noted the presenting officer's submissions that none of the documents proposing to now be admitted were alien to Mr O'Leary as he himself was the sender or recipient of all of the documents the presenting officer was seeking to admit, with one exception. The exception was the email seeking proof of postage regarding the hard copy version of the Notice of Proceedings and the panel did not consider that the fact Mr O'Leary had never had sight of this email could be prejudicial to him in respect of the admitting of the document for the purposes of this hearing.

The panel also considered the presenting officer's submissions that the initial email containing the Notice of Proceedings was sent at 2.40pm on 23 January 2024, the password email was sent at 2.42pm on that same day, and at 2.49pm Mr O'Leary sent an email stating "thank-you" to the TRA caseworker who had sent through the two documents.

The panel also heard submissions from the presenting officer stating that there was no evidence to suggest that Mr O'Leary had any issue in accessing the electronic version of the Notice of Proceedings with the password provided. The presenting officer referred to Mr O'Leary stating his concerns about issues with the delivery of the hard copy of the Notice of Proceedings, as seen on page 17 of the service bundle.

The panel noted the presenting officer's representation that even if there had been issues around the service of the hard copy Proceedings, the Proceedings had been properly, electronically served on Mr O'Leary on 23 January 2024.

The panel concluded that the additional documents were not only relevant but essential in demonstrating that the 2018 Procedures had been properly adhered to, and that Mr O'Leary had in fact been provided with sufficient notice of the hearing. The panel considered Mr O'Leary would suffer no disadvantage as a result of the decision to admit the additional documents and that even if Mr O'Leary did not access the Proceedings, the panel was satisfied the TRA had sent it in sufficient time in line with the 2018 Procedures.

The panel considered that it was fair in all the circumstances to admit the documents, and that they did not raise new factual matters with specific reference to the allegations.

The panel considered the additional documents were relevant. Accordingly, the documents were added to the bundle.

### Application to proceed in the absence of the teacher

Mr O'Leary was not present at the hearing nor was he represented. The presenting officer made an application to proceed in the absence of Mr O'Leary.

The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to it, 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).

Following the successful application by the presenting officer to adduce new evidence to demonstrate that the Notice of Proceedings was served on Mr O'Leary on 23 January 2024, the panel was satisfied that the Notice of Proceedings had been sent to Mr O'Leary in accordance with the 2018 Procedures.

The panel noted the presenting officer's submission stating that the default position in such regulatory matters is that the registrant should be present, and that in these circumstances Mr O'Leary's absence was voluntary and he was aware that the matter would proceed in his absence. The presenting officer submitted that there is a balance of fairness to be struck between Mr O'Leary's right to be present at the hearing and the regulator's position of responsibility to protect the public and move matters along efficiently. The presenting officer further submitted that it was also within Mr O'Leary's best interests to progress this matter without any further delay.

The panel noted the presenting officer's question as to what would be achieved if the application were not granted, and the panel was particularly compelled by the presenting officer's submission that there was no evidence to suggest that postponing and relisting the hearing would lead to Mr O'Leary's attendance.

The presenting officer specifically drew the panel's attention to Mr O'Leary's statement at page 2 of the service bundle in which he stated with regards to the listing of the hearing, "any date would be fine [...] I will not be taking part in proceedings".

The panel noted that Mr O'Leary had not sought an adjournment to the hearing and the panel did not consider that an adjournment would procure his attendance at a hearing. There was no medical evidence before the panel that Mr O'Leary was unfit to attend the hearing. The panel concluded that there was no prospect of Mr O'Leary attending an adjourned hearing, and felt that Mr O'Leary had been afforded the opportunity to make representations regarding the allegations. The panel concluded this was an opportunity Mr O'Leary had, to some extent, utilised and the panel particularly noted pages 169-171 of the bundle in which Mr O'Leary provided some comment on the allegations.

The panel also considered the effect any delay may have on the witness.

The panel decided that it was proportionate and appropriate for it to exercise its discretion to proceed in the absence of Mr O’Leary and that it was in the public interest for the hearing to take place.

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 O’Leary was neither present nor represented.

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

The panel considered an application from Mr O’Leary that the hearing should be heard in private.

The panel noted that Mr O’Leary was not present at the hearing to make oral submissions regarding the application, and the only evidence the panel was able to consider was that Mr O’Leary had ticked the box on his Notice of Proceedings response indicating he wished for the hearing to be held in private, and his comments in an email on 27 February 2024, which read as follows:

“I have requested the hearing to be held in private as I have not taught for 5 years, never intend to return to the profession and the allegations were nothing to do with my role in school, regardless of outcome I do not want for a ruling on a profession I voluntarily left before allegations were even brought to light to effect [sic] my family and friends.”

The TRA contacted Mr O’Leary on 22 March 2024 to inform him that it intended to oppose his application for the hearing to be heard in private and invite him to make any further submissions or evidence in support of his application. The TRA did not receive any further submissions from Mr O’Leary.

The panel heard submissions from the presenting officer opposing the application before reaching its decision. The presenting officer’s submissions included that the default position in regulatory matters such as this is that the hearing is held in public and that this is an important function of the regulatory process. The presenting officer also submitted that there were no significant concerns regarding Mr O’Leary’s health or sensitive private matters which would permeate the entirety of the hearing.

The panel considered that the only reason Mr O’Leary had provided, in applying for the hearing to be held in private, was that he did not want the process to affect his family and friends. The panel did not consider this to be a compelling reason to justify moving from the default position and for the hearing to be held in private.

The panel considered that the application did not legitimately relate to aspects of Mr O’Leary’s private life and there was no contrary public interest in those areas being discussed in public.

Accordingly, the panel did not grant the application. The panel considered it would be contrary to the public interest for the hearing to be heard in private.

The panel noted that it and the presenting officer would be cognisant of any sensitive, private matters which may emerge throughout the course of the hearing and if any such matters arose, the panel resolved to move the hearing into a temporary private session as required.

#### Application for evidence of witness to be admitted as hearsay

The presenting officer made an application that the evidence of Child A, specifically the interview transcript and recording of her police Achieving Best Evidence (“ABE”) interview, be admitted as hearsay evidence in the absence of Child A as a witness.

The panel carefully considered the submissions made in determining whether it would be fair to admit the evidence as hearsay evidence. The panel noted that the evidence of the witness was not the sole and decisive evidence in relation to the allegations.

Furthermore, the evidence was not such that the panel felt that it would be unable to test its reliability in the absence of the witness. On this point, the panel particularly noted the presenting officer’s submission that while Child A was not in attendance at the hearing, the contemporaneous messages exchanged between Child A and Mr O’Leary – the accuracy of which have never been challenged by Mr O’Leary and are therefore accepted – would act as a significant, objective method of testing the hearsay evidence of Child A.

The panel noted the presenting officer’s submission that whilst the TRA had made reasonable endeavours to arrange for Child A to attend the hearing and provide live evidence, Child A had stated that she was not willing and able to engage in the process due to the impact it would have on her wellbeing, given the nature of the allegations. The panel accepted this as a legitimate reason for Child A’s non-attendance at the hearing.

The panel concluded that the balance of fairness was in favour of admitting the evidence as hearsay evidence and the panel did not consider that to do so would cause significant unfairness to Mr O’Leary. Accordingly, the panel determined that the evidence of Child A (in the transcript and audio tape of her ABE interview) would be admitted and would be considered in the panel’s deliberations. The panel was mindful that the weight attributed to the hearsay evidence would be a matter for it to determine when weighing up the evidence in the fact finding stage.

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 understood 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 confirmed that it has applied the April 2018 Procedures in this case.

## 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 3 to 5
- Section 2: Notice of Proceedings – pages 6 to 17
- Section 3: TRA witness statements – pages 18 to 22
- Section 4: TRA documents – pages 23 to 168
- Section 5: Teacher documents – pages 169 to 171

In addition, the panel agreed to accept the following:

- Service bundle – pages 1 to 26
- Email thread dated 23 January 2024 showing password to access electronic Notice of Proceedings being sent to Mr O'Leary
- Email thread dated 23 January-21 February 2024, showing postage of Notice of Proceedings to Mr O'Leary

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

### Witnesses

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

- Witness A, [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.

In 2011, Mr O'Leary completed his postgraduate certificate in education ("PGCE") and commenced his role as a teacher.

Between around 1 November 2013 and 31 December 2013, it is alleged that Mr O'Leary engaged in a sexual relationship with Child A.

On 6 February 2014, Child A was interviewed by the police.

In February 2019, Mr O'Leary resigned from his role as a teacher.

On 14 March 2019, Mr O'Leary was interviewed by the police.

[Redacted]

On 22 November 2019, Child A confirmed that she was unwilling to attend a criminal hearing in respect of the concerns around Mr O'Leary.

[Redacted]

On 24 December 2021, the decision maker of the TRA referred the concerns to a professional conduct panel hearing (PCPH).

On 11 January 2022, Capsticks LLP was instructed by the TRA to prepare for a PCPH.

On 7 November 2023, the matter was referred back to the senior decision maker.

On 10 November 2023, the senior decision maker referred amended allegations for PCPH.

## **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. Between around 1 November 2013 and 31 December 2013 in relation to Child A, who you knew or ought to have known was under the age of 16, you:**

**a) Engaged in the exchange of sexually explicit messages with Child A;  
and/or**

As a preliminary matter, the panel considered the stem of the allegation and whether Mr O'Leary knew or ought to have known that Child A was under the age of 16, at the time to which the allegations relate.

The panel noted that Mr O’Leary confirmed in a letter to the TRA dated 24 August 2021 that his teaching career had spanned from 2011 to 2019, and in his interview with police in 2019 he confirmed that at the time he had interacted with Child A, he had been working at Beck Primary School (“the School”).

The panel was therefore satisfied that Mr O’Leary had been working at the School between 1 November 2013 and 31 December 2013.

The panel considered if Mr O’Leary knew or ought to have known Child A was under the age of 16 at that time. The panel noted that in Mr O’Leary’s police interview he stated that he had been in contact with Child A but that he initially thought she was 17. The panel further noted Mr O’Leary’s evidence in his police interview that he knew Child A was [redacted] before the second occasion he met up with her, on 23 November 2013.

Given the nature of messages before the first meeting from Child A referring to wearing her school uniform, the panel determined that Mr O’Leary ought to have known Child A was under the age of 16 before their first meeting in person and could have checked this issue with her.

The panel also noted a message contained in the bundle from the messaging service Kik, in which Mr O’Leary stated, on 17 November 2013 – one day after his first meeting with Child A – “You don’t look your age at all”. As there were no previous messages to suggest Child A disclosed her age by message, the panel concluded that on the balance of probabilities, it was likely that Child A had told Mr O’Leary that she was [redacted] when she met him in person on 16 November 2013.

The panel was satisfied that prior to the second meeting between Child A and Mr O’Leary at Mr O’Leary’s family home on 23 November 2013, Mr O’Leary knew that Child A was [redacted].

The panel was satisfied that on 16 November 2013, Mr O’Leary either knew or ought to have known the age of Child A.

The panel noted that in a letter dated 5 November 2023, Mr O’Leary admitted to allegation 1(a). However, the panel still reviewed the evidence and reached a conclusion on this allegation, taking into account Mr O’Leary’s admission.

The panel had sight of and considered the record of chat messages between Mr O’Leary and Child A on the platform Kik, dated 14 November 2013 to 8 December 2013. The panel was satisfied that there were a significant number of examples of sexually explicit messages exchanged between Mr O’Leary and Child A.

The presenting officer drew the panel’s attention to a number of key examples, and the panel has reduced these examples further and noted, in particular, the following:

- 25 November 2013, 21:48, Mr O’Leary: “Your face would be covered in cum for a start. ha”
- 26 November 2013, 22:47, Mr O’Leary: “what I would like to see is you spitting on it and using that as lube as you stroke it”
- 26 November 2013, 22:51, Mr O’Leary: “Then finish me off onto your tongue and dribble it slowly down your chin, onto your boobs and southwards”
- 30 November 2013, 12:58, Mr O’Leary: “Although I would have loved to just cum and watch you lick it all up”
- 1 December 2013, 14:07, Mr O’Leary: “See you spit on my cock and then spread it all over with your tongue”
- 1 December 2013, 14:10, Mr O’Leary: “Hell no. Fucking spit all over it” “play with it” “bite it” “suck on my balls” “whatever you want [icon]”

The panel noted the presenting officer’s submission that a total of 2,147 messages on Kik were exchanged between Mr O’Leary and Child A between 14 November 2013 and 8 December 2013, although it accepted that not all of these were sexually explicit in nature.

The panel considered the oral evidence and written statement of Witness A, who explained that during her interview with Mr O’Leary on the 14 March 2019, he admitted that his conversation with Child A was sexually explicit. The panel noted that Mr O’Leary seemingly stated in police interview that Child A initiated the sexually explicit conversations, although the panel found this to be at odds with the documentary evidence it saw in the bundle.

Notwithstanding Mr O’Leary’s evidence, the panel was satisfied that the conversation between Child A and Mr O’Leary contained messages which were inherently sexually explicit in nature.

The panel found allegation 1(a) proven.

**b) Caused and/or allowed Child A to send you indecent images of herself; and/or**

The panel noted that in a letter dated 5 November 2023, Mr O’Leary admitted to allegation 1(b). However, the panel still reviewed the evidence and reached a conclusion on this allegation, taking into account Mr O’Leary’s admission.

The panel considered the oral evidence and written statement of Witness A, who explained that as part of a separate police investigation not concerning Mr O’Leary, Child A’s mobile phone was seized and the chat logs from her conversations with Mr O’Leary were extracted.

As the panel did not see or need to see the images, the panel utilised Witness A's explanation of the categorisation of indecent images.

Witness A explained that indecent images of children are images of any child under 18, and they are scaled into three categories:

- A. Images involving penetrative sexual activity and/or images involving sexual activity with an animal or sadism
- B. Images involving non-penetrative sexual activity
- C. Other indecent images not falling within categories A or B

Witness A confirmed that approximately 80 indecent images of Child A were sent to Mr O'Leary, which were categorised as category B and C indecent images.

Witness A stated that the police have not been able to share these images as part of the TRA's investigation as it has been deemed not appropriate or proportionate in the circumstances, as per the redaction policy and legislation. However, Witness A confirmed that the images recovered from Child A's phone which were sent to Mr O'Leary include images of Child A semi-naked, partially clothed and posed in a sexual manner showing non-penetrative sexual activity, for example, Child A rubbing her breasts or vagina.

On the basis of the strong police evidence, the panel found allegation 1(b) proven.

**c) Engaged in one or more sexually explicit conversations with Child A; and/or**

The panel noted that in a letter dated 5 November 2023, Mr O'Leary admitted to allegation 1(c). However, the panel still reviewed the evidence and reached a conclusion on this allegation, taking into account Mr O'Leary's admission,

The panel heard submissions from the presenting officer dealing with allegation 1(c) in the context of sexually explicit, verbal conversations between Child A and Mr O'Leary over telephone and Skype communications. The panel was taken to several references in the bundle indicating that Child A and Mr O'Leary engaged in verbal conversations – as opposed to typed communication – on both Skype and mobile phones.

This included Child A asking Mr O'Leary by a written communication on Skype on 15 November 2013 “are you able to voice today or not?” and Mr O'Leary replying “yeah :) are you?” The panel also noted Child A's comment in her ABE interview that she had contact with Mr O'Leary “over Skype and phone”.

The panel noted that it did not have any recording or transcript of a sexually explicit conversation between Child A and Mr O'Leary which took place verbally by Skype or mobile phone. However, the panel concluded that Child A and Mr O'Leary had

conversations over Skype and mobile phone and, having regard to the sexually explicit nature of the written communications between Child A and Mr O'Leary and the general tone of their interactions, the panel was able to determine on the balance of probabilities, that Mr O'Leary had engaged in one or more sexually explicit conversations with Child A.

Accordingly, the panel found allegation 1(c) proven.

**d) On one or more occasions, engaged in kissing and/or sexual touching with Child A; and/or**

The panel considered the oral evidence and written statement of Witness A, who explained that Child A was interviewed as part of a separate police investigation on the 6 February 2014. She stated that during this interview, Child A disclosed that she had been involved in sexual contact with Mr O'Leary when she was [redacted].

Witness A submitted that Child A reported that she had met Mr O'Leary in an online chat website and had exchanged explicit sexual messages and photographs. She stated that Child A said that she and Mr O'Leary had met twice in person, and explained that on the first occasion they had engaged in kissing and sexual touching.

The panel considered the transcript of the ABE interview with Child A, dated 6 September 2022. Detailing her first meeting with Mr O'Leary, Child A explained that she had met Mr O'Leary and then he took her to [redacted] and they had something to eat. She stated that they then went to [redacted] where they walked around and sat on a bench and kissed, and were "touching each other up a bit". Child A explained that Mr O'Leary was feeling her bottom and she was touching his penis, under each other's clothes.

The presenting officer submitted that Mr O'Leary and Child A engaged in kissing and/or sexual touching during this first meeting which occurred on 16 November 2013. In his submissions, the presenting officer took the panel to a number of messages exchanged between Child A and Mr O'Leary on Kik.

Examples included:

- 17 November 2013, 09:00, Mr O'Leary: "I feel a little bad about the lake shinanigans [sic]"
- 17 November 2013, 09:09, Mr O'Leary: "I do not regret the kiss though [sic]"
- 17 November 2013, 09:09, Child A: "I'm glad. Cause I liked sitting on your knee and kissing"
- 17 November 2013, 09:12, Mr O'Leary: "Yeah I really enjoyed that"

- 17 November 2013, 10:07, Mr O’Leary: “I did enjoy how we got all heated and then when Nooooooo”
- 17 November 2013, 10:08, Mr O’Leary: “Repeatedly”
- 17 November 2013, 10:08, Mr O’Leary: “Shows we had some restraint I guess?”
- 17 November 2013, 10:11, Mr O’Leary: “Yeah got to say, it did feel good in your warm hands”

The panel noted Mr O’Leary’s comment in his police interview in 2019 that he did not remember Child A sitting on his knee, and he denied “kissing” Child A, touching her “bum under clothes”, or that she touched his penis for five seconds. In his interview, Mr O’Leary did state that he and Child A had “hugged”. The panel also noted Mr O’Leary’s representations dated 24 August 2021, where he denied any sexual encounter with Child A, and his further denial on 5 November 2023.

The panel considered Child A’s aforementioned comments in her ABE interview stating that she and Mr O’Leary had kissed, he had touched her bottom, and that she had held his penis in her hand. The panel found this evidence to be extremely compelling and considered Child A’s account of events was reliable. The panel found there was no reason to indicate Child A’s account in her ABE interview was untruthful and, specifically, the panel found that the Kik messages acted as a contemporaneous account of what took place on 16 November 2013 and that contemporaneous account supported Child A’s version of events as described in her ABE interview despite the passage of time between the events and the interview.

The panel found the Kik messages compelling as they understood them to be the recalling or reflecting of events which had recently taken place, by the people who had been involved in those events. The panel found it particularly compelling that they felt Mr O’Leary himself was specifically referring back to interactions and contact he had had with Child A on 16 November 2013: the panel did not consider that these messages showed Mr O’Leary’s fantasies, rather they considered these messages showed his memories.

Accordingly, the panel found allegation 1(d) proven.

**e) On one or more occasions, engaged in oral sex and/or penetrative sexual activity with Child A**

The panel heard submissions from the presenting officer that the conduct underpinning allegation 1(e) took place on 23 November 2013, when Mr O’Leary picked Child A up in his car and took her to [redacted]. That this meeting occurred is not disputed by Mr O’Leary and in his police interview in 2019 he confirmed that he had brought Child A to [redacted].

The presenting officer took the panel to a number of Kik messages within the bundle which were sent after the meeting on 23 November 2013.

Examples included:

- 24 November 2013, 11:59, Mr O’Leary: “Mmmm blowjob”
- 24 November 2013, 12:05, Mr O’Leary: “No I’m just remembering yesterdays”
- 25 November 2013, 22:17, Child A: “But when I cum I moan a lot”
- 25 November 2013, 22:17, Mr O’Leary: “You tasted good”
- 30 November 2013, 12:49, Mr O’Leary: “This time last week guess what was going on..[icon]”
- 30 November 2013, 12:50, Child A: “[Child A] was in Liam’s car touching Liam’s leg hehehehe”
- 30 November 2013, 12:50, Mr O’Leary: “Actually no...” “We’d arrived I think”
- 30 November 2013, 12:51, Mr O’Leary: “So we were trying not to do anything”
- 30 November 2013, 12:51, Child A: “Ohhh yeah and that failed cause I straddled you in the living roomahaha”
- 30 November 2013, 12:52, Mr O’Leary: “And then we know what happened next”
- 30 November 2013, 12:51, Child A: “You ate pussy and I swallowed your cum mmmmm Liam’s gorgeous gorgeous cum”
- 30 November 2013, 16:36, Mr O’Leary: “No. You’re good...amazing head”
- 1 December 2013, 13:12, Child A: “I know and it was you who stopped us going all the way lol”
- 1 December 2013, 13:12, Mr O’Leary: “Want to not do it?”
- 1 December 2013, 13:13, Child A: “Yh I know. I wouldn’t have done it either”
- 1 December 2013, 13:13, Mr O’Leary: “Let’s face it... did everything but... ha”
- 1 December 2013, 13:15, Mr O’Leary: “Well. No condoms”
- 1 December 2013, 13:15, Mr O’Leary: “Wasn’t going to risk that!”



As with allegation 1(d), the panel found it particularly compelling that they felt Mr O’Leary himself was specifically referring back to interactions and contact he had had with Child A on 23 November 2013, and not merely reading messages from Child A.

The panel considered the transcript of the ABE interview with Child A, dated 6 September 2022. Child A submitted that the second time they met, Mr O’Leary took Child A to [redacted] and whilst their food was cooking, they went into the living room and she sat on his knee, they kissed and then she got off of him as she was a bit weary. Child A submitted that Mr O’Leary asked her to come sit back on his knee and so she did.

Child A explained that she had oral sex with Mr O’Leary. She stated that they went upstairs to his old bedroom, took their clothes off and performed oral sex on each other. Child A explained in her own words that Mr O’Leary ejaculated in her mouth, and so she swallowed it. Child A also explained that Mr O’Leary had “fingered” her, which the panel took to mean that Mr O’Leary had penetrated Child A with his fingers.

As with allegation 1(d), the panel found this evidence to be extremely compelling and took Child A’s account of events from her ABE interview as reliable. The panel found there was no reason to indicate Child A’s account in her ABE interview was untruthful and, specifically, the panel found that the Kik messages acted as a contemporaneous account of what took place on 23 November 2013 and that contemporaneous account supported Child A’s version of events as described in her ABE interview.

The panel considered the oral evidence and written statement of Witness A, who stated that Child A explained that Mr O’Leary picked her up the second time they met and took her to [redacted]The panel also noted Mr O’Leary’s representations dated 24 August 2021, where he denied any sexual encounter with Child A, and his further denial on 5 November 2023.

Having regard to all of the evidence, the panel concluded that Mr O’Leary had performed oral sex on Child A and Child A had performed oral sex on Mr O’Leary, and that on the balance of probabilities Mr O’Leary had penetrated Child A with his fingers.

Accordingly, the panel found allegation 1(e) 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 O'Leary, in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr O'Leary 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.
- 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 O'Leary amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

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

The panel found that the offences of sexual activity, sexual communication with a child, 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 any such activity were relevant. The Advice indicates that where behaviours associated with such offences exist, a panel is more likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel noted that the allegations 1(a), 1(b), 1(c), 1(d) and 1(e) took place outside the education setting. However, the panel found that Mr O'Leary's actions were relevant to his profession as a teacher in that he engaged in the exchange of sexually explicit messages, allowed Child A to send him indecent images of herself, engaged in sexually explicit conversations with Child A, engaged in kissing, sexual touching and oral and/or penetrative sexual activity with a school age child, in that she was [redacted].

Accordingly, the panel was satisfied that Mr O'Leary 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 O'Leary's actions constituted conduct that may bring the profession into disrepute.

The panel did not find it relevant or compelling that Mr O'Leary has previously stated he does not intend to return to the teaching profession. The panel found that the allegations are of the most serious in nature and relate to sexual communication and contact with an underage child.

Having found the facts of allegations 1(a), 1(b), 1(c), 1(d) and 1(e) proved, the panel concluded that Mr O'Leary'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 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 O'Leary, which involved engaging in sexually explicit messages with Child A, allowing Child A to send indecent images to him, engaging in explicitly sexual conversations with Child A, engaging in kissing and sexual touching with Child A and engaging in oral sex and/or penetrative sexual activity with Child A, the panel found all of the aforementioned public interest considerations to be relevant in this case.

Specifically, the panel found that a prohibition order would likely be in the interests of safeguarding the wellbeing of pupils and the public by virtue of the serious nature of the allegations. Similarly, the panel considered that public confidence in the profession could

be seriously weakened if conduct such as that found against Mr O’Leary 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 O’Leary 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 O’Leary. 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 O’Leary. 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;
- 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;
- any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or pseudo photograph or image of a child, or permitting such activity, including one-off incidents; and,
- 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).

The panel also noted paragraph 41 of the Advice which directs panels to attach appropriate weight and seriousness to online behaviours including online misconduct, facilitating online abuse or facilitating inappropriate relationships (including both online-only and where online relationships move into contact relationships, the latter of which the panel found had happened in this case). The panel determined that all three of these online behaviours were present on the facts and recognised that it must attach appropriate weight and seriousness to that fact. The panel concluded the online behaviours were very serious in nature.

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

There was no evidence that Mr O’Leary’s actions were not deliberate.

There was no evidence to suggest that Mr O’Leary was acting under extreme duress, and, in fact, the panel found Mr O’Leary’s actions to be calculated and that he was acting entirely of his own free will.

When considering if Mr O’Leary demonstrated exceptionally high standards or had contributed significantly to the education sector, the panel considered Mr O’Leary’s assertion in his letter dated 24 August 2021 that in his teaching career he had been “a model professional and role model for other younger members of staff”. However, the panel was not compelled by this statement. They concluded this was merely a comment made by Mr O’Leary himself, with no corroborating evidence, character references or examples.

The panel therefore concluded there was no evidence that Mr O’Leary had demonstrated exceptionally high standards in both, or indeed either, personal and professional conduct or that he had contributed significantly to the education sector.

The panel noted that there was only limited evidence of insight or remorse on the part of Mr O’Leary.

The panel considered Mr O’Leary’s letters dated 28 August 2021 and 5 November 2023, where he stated that he “regretted” speaking to Child A, but “stood by his defence” that he was “made to believe she was older than she claimed”. The panel considered Mr O’Leary’s assertion that at least one of the online sites he used to interact with Child A was only supposed to be used by people over 18.

The panel also noted that Mr O’Leary admitted to allegations 1(a)-(c) and that he recognised that his conduct associated with those allegations “contravenes the professional conduct standards”. The panel therefore accepted that there was a degree of insight and remorse shown by Mr O’Leary.

The panel also considered that Mr O’Leary stated that he left teaching to start his own [redacted] business before he was made aware of the allegations, and submitted that he has no intention of returning to the teaching profession in the future. However, the panel did not find this relevant or compelling when deciding whether to impose a prohibition order, due to the seriousness of the conduct found proven.

Overall, the panel recognised a theme throughout the evidence of Mr O’Leary attempting to shift blame onto Child A herself, such as by stating that Child A had initiated the inappropriate interactions between them. The panel was disturbed by this perspective

and felt it demonstrated that Mr O'Leary did not recognise the level of damage caused to Child A by the interactions and why the panel – and indeed the public at large – might have concerns about Mr O'Leary's behaviour in this case.

The panel also noted differences in some of Mr O'Leary's communications with the TRA in which he denied ever meeting Child A in person compared with his police interview in which he accepted that he met her on two occasions. The panel felt this indicated a lack of truthfulness and honesty and that Mr O'Leary was neither consistent nor candid about his interactions with Child A, which the panel found concerning.

The panel also noted the presenting officer's submission that Mr O'Leary's online and in-person conduct actually escalated after he became aware of Child A's age. This included that the most serious physical sexual interactions and the majority of the messages (including extremely sexually graphic messages) which increased in number and intensity, occurred after Mr O'Leary found out Child A's age. The panel was concerned that Mr O'Leary had not only not had any insight or remorse regarding his actions at the time that he discovered Child A was under 16, but that he had actively intensified his interactions with her.

The panel felt that the only matter which appeared to move Mr O'Leary emotionally with respect to these allegations and proceedings was the impact it could have on his friends and family at this time. Indeed, this was the one and only reason Mr O'Leary gave for applying for the hearing to be held in private rather than public. The panel concluded that Mr O'Leary's reflection on these allegations may have led to embarrassment and concern for his own public image, but not a genuine sense of reflection, insight and remorse for his actions.

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 O'Leary 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 O'Leary. The seriousness and nature of the misconduct, the concern for the safeguarding and wellbeing of children and the community, and the need to declare and uphold proper standards were significant factors 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 indicate 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; and, any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr O'Leary was responsible for engaging in sexually explicit messages with Child A, allowing Child A to send indecent images to him, engaging in sexually explicit conversations with Child A, engaging in kissing and sexual touching with Child A and engaging in oral sex and/or penetrative sexual activity with Child A. The panel therefore concluded that the aforementioned behaviours referenced in the Advice were present on these facts.

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 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 Liam O'Leary should be the subject of a prohibition order, with no provision for a review period.

In particular, the panel has found that Mr O'Leary 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.
- 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 O’Leary fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious and relate to sexual communication and sexual contact with an underage child.

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 or conduct likely to 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 O’Leary, 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 and/or safeguard pupils. The panel commented “Specifically, the panel found that a prohibition order would likely be in the interests of safeguarding the wellbeing of pupils and the public by virtue of the serious nature of the allegations.” 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 or remorse, which the panel sets out as follows, “The panel noted that there was only limited evidence of insight or remorse on the part of Mr O’Leary.”

“The panel considered Mr O’Leary’s letters dated 28 August 2021 and 5 November 2023, where he stated that he “regretted” speaking to Child A, but “stood by his defence” that he was “made to believe she was older than she claimed”. The panel considered Mr O’Leary’s assertion that at least one of the online sites he used to interact with Child A was only supposed to be used by people over 18.” In my judgement, the lack of full 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, “public confidence in the profession could be seriously weakened if conduct such as that found against Mr O’Leary was not treated with the utmost seriousness when regulating the conduct of the profession.” I am particularly mindful of the finding of sexual misconduct involving a child 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 and conduct likely to bring the profession into disrepute 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 O’Leary himself and the panel comment “When considering if Mr O’Leary demonstrated exceptionally high standards or had contributed significantly to the education sector, the panel considered Mr O’Leary’s assertion in his letter dated 24 August 2021 that in his teaching career he had been “a model professional and role model for other younger members of staff”. However, the panel was not compelled by this statement. They concluded this was merely a comment made by Mr O’Leary himself, with no corroborating evidence, character references or examples.”

The Panel went on to say “The panel therefore concluded there was no evidence that Mr O’Leary had demonstrated exceptionally high standards in both, or indeed either, personal and professional conduct or that he had contributed significantly to the education sector.”

A prohibition order would prevent Mr O’Leary 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, “Overall, the panel recognised a theme throughout the evidence of Mr O’Leary attempting to shift blame onto Child A herself, such as by stating that Child A had initiated the inappropriate interactions between them. The panel was disturbed by this perspective and felt it demonstrated that Mr O’Leary did not recognise the level of damage caused to Child A by the interactions and why the panel – and indeed the public at large – might have concerns about Mr O’Leary’s behaviour in this case.”

I have also placed considerable weight on the finding “The panel also noted the presenting officer’s submission that Mr O’Leary’s online and in-person conduct actually escalated after he became aware of Child A’s age. This included that the most serious physical sexual interactions and the majority of the messages (including extremely sexually graphic messages) which increased in number and intensity, occurred after Mr O’Leary found out Child A’s age. The panel was concerned that Mr O’Leary had not only not had any insight or remorse regarding his actions at the time that he discovered Child A was under 16, but that he had actively intensified his interactions with her.”

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

I have considered the panel’s comments “The Advice indicates that there are behaviours that, if proved, would indicate 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; and, any activity involving viewing, taking, making, possessing, distributing or publishing any indecent photograph or image or indecent pseudo photograph or image of a child. The panel found that Mr O’Leary was responsible for engaging in sexually explicit messages with Child A, allowing Child A to send indecent images to him, engaging in sexually explicit conversations with Child A, engaging in kissing and sexual touching with Child A and engaging in oral sex and/or penetrative sexual activity with Child A. The panel therefore concluded that the aforementioned behaviours referenced in the Advice were present on these facts.”

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 involving sexual activity with a child and the lack of full 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 Liam O’Leary 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 O’Leary 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 O’Leary 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 underneath.

**Decision maker: Sarah Buxcey**

**Date: 3 April 2024**

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