



Teaching
Regulation
Agency

Mr Michael Lee: Professional conduct panel outcome

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

December 2024

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

Teacher:	Mr Michael Lee
Teacher ref number:	1062010
Teacher date of birth:	07 November 1985
TRA reference:	18905
Date of determination:	10 December 2024
Former employer:	Swaffham Bulbeck Primary School, Cambridgeshire

Introduction

A professional conduct panel (“the panel”) of the Teaching Regulation Agency (“the TRA”) convened on 9 -10 December by way of a virtual hearing, to consider the case of Mr Michael Lee.

The panel members were Mr Paul Hawkins (lay panellist – in the chair), Mrs Christine McLintock (teacher panellist), Mrs Kate Hurley (teacher panellist).

The legal adviser to the panel was Mr Jermel Anderson of Blake Morgan solicitors.

The presenting officer for the TRA was Ms Kiera Riddy of Browne Jacobson solicitors.

Mr Michael Lee was not present and was not represented.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegations set out in the notice of proceedings dated 4 September 2024

It was alleged that Mr Michael Lee was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst he was employed as a Teacher at Swaffham Bulbeck Primary School ('The School') between 1 September 2016 and 25 September 2020:

1. He failed to maintain appropriate professional boundaries with Former Pupil A, including by:
 - a. Being friends with Former Pupil A on Facebook;
 - b. On an unknown date between 6 May 2017 and 12 May 2017:
 - i. Referred to Former Pupil A as 'stunning' or words to that effect;
 - ii. Engaged in conversations with Former Pupil A about their romantic relationship;
 - iii. Whilst discussing Former Pupil A's romantic relationships stated:
 - a. "he didn't deserve to be with you" or words to that effect;
 - b. "have you slept with your bf" or words to that effect;
 - iv. Attempted to add Former Pupil A on Snapchat;
 - v. Requested a photo of Former Pupil A whilst she was in the bath;
 - vi. Requested a photo of Former Pupil A. when he knew that she was in bed;
2. He failed to maintain appropriate professional boundaries with Pupil B, in that
 - a. On one or more occasions he hugged Pupil B;
 - b. On one or more occasions he hugged Pupil B so close that his cheek rubbed against Pupil B's cheek and/or Pupil B could feel his bristles on her cheek;

- c. On one or more occasions he kissed pupil B on her head;
 - d. He showed favouritism to Pupil B by never telling her off.
3. His conduct as may be found proven at allegations 1 and 2 above was of a sexual nature and/or was sexually motivated

In the absence of Mr Lee, the allegations were not admitted.

Mr Lee also made no admission as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to proceed in the absence of Mr Lee

The panel heard an application from the TRA's presenting officer to proceed in the absence of Mr Lee. It heard and accepted legal advice in relation to this application.

The panel was advised by the TRA that it had served the bundle, the notice of hearing, and correspondence indicating a change of venue upon Mr Lee's address within the relevant notice period. The panel had sight of the relevant mail tracking information demonstrating that the documents had been sent to the appropriate address, and that it had been signed for. The panel also noted that Mr Lee had been in correspondence with the TRA in relation to this matter in general terms in 2020 but since then he appeared to have disengaged with the process.

The panel noted that the letter confirming the change of venue from an in person hearing to a virtual hearing did not appear to have been delivered to Mr Lee, per the tracking information. However, it was established that Mr Lee had not attended at the TRA building at the designated time and date, and given his other disengagement, it was not plausible that his non-attendance was attributable to him being unaware of the change of venue.

The panel was therefore satisfied that there had been appropriate notice of these proceedings.

The panel determined that in the circumstances it would be fair to proceed in the absence of Mr Lee. Having consideration for Mr Lee's disengagement, and his notice of these proceedings, the panel considered that it could infer that he had voluntarily waived his right to attend. Additionally, the panel was mindful of the public interest in proceeding with this matter in an expeditious manner and was also aware of the witness who was scheduled to give evidence before it. Therefore, taking into account all of the circumstances of this matter, the panel determined that when considering fairness, it

could appropriately proceed in Mr Lee's absence.

The application was therefore accepted.

Application to adduce the hearsay evidence of Pupil B

The panel heard an application to introduce the evidence of Pupil B as hearsay evidence. The TRA advised that Pupil B would not be attending to give evidence for several reasons, but that her witness statement, dated 15 April 2023, was relied upon as part of their case. The panel heard and accepted legal advice in respect of this application.

The panel determined that the evidence was patently relevant. It therefore focused on the question of fairness. The panel considered that the TRA had made reasonable attempts to secure the attendance of Pupil B. It noted that it had been provided with a good reason for her non-attendance, considering her [REDACTED].

The panel formed the view that the evidence of Pupil B was sole and decisive insofar as it pertained to Allegation 2. It did consider the TRA's position that there was other police material that it could rely upon in relation to this allegation, however it considered that realistically, it mainly emanated from Pupil B.

The panel noted that it had been advised that the TRA had notified Mr Lee of this application, and whilst it had not had sight of this notification, it considered the TRA's submission that he had been made aware of it and had not responded.

The panel was of the view that Pupil B's evidence was sole and decisive in respect of Allegation 2. It considered that it would therefore have to deal with it in a careful manner. However the panel was of the view that it was testable via other means, due to the presence of other corroborative material, and therefore it felt that it could admit it.

The panel was of the view that as sole and decisive evidence, it would need to carefully consider what weight it could attribute to the statement of Pupil B, however it determined that it could safely admit it in the circumstance.

The panel therefore allowed the application.

Application to Amend Allegation 3

The panel heard an application to amend Allegation 3, to read “and/or” rather than “and” in respect of the conjunction between “Allegation 1 and Allegation 2”. The panel also heard and accepted legal advice in respect of this application.

The panel considered that this amendment was required to correct a technical deficiency which appeared to have arisen from a typographical error. It did not form the view that it fundamentally changed the nature of the case. Given the way the allegation was to be amended, the panel was satisfied that any risk of prejudice to Mr Lee was significantly limited in scope.

The panel therefore allowed the amendment, exercising its discretion with consideration for the interests of justice. Allegation 3 was therefore amended to read:

“3. Your conduct as may be found proven at allegations 1 and/or 2 above was of a sexual nature and/or was sexually motivated”

Summary of evidence

Documents

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

Section 1: Anonymised pupil list – page 5

Section 2: Notice of hearing – pages 7 to 13

Section 3: Teaching Regulation Agency witness statements – pages 15 to 49

Section 4: Teaching Regulation Agency documents – pages 51 to 179

Section 5: Teacher documents – pages 181 to 184

In the consideration of this case, the panel had regard to the document Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2018, (the “Procedures”).

Witnesses

The panel heard oral evidence from Pupil A, who was previously taught by Mr Lee.

Mr Lee was not present and therefore, he did not give evidence in these proceedings.

Decision and reasons

The panel announced its decision and reasons as follows:

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

Mr Lee was employed by Swaffham Bulbeck Primary School. In 2017, whilst he was employed by the School as a Designated Safeguarding Lead and Assistant Headteacher, was subject to a disciplinary process concerning an interaction that he had with a former pupil over social media. Pupil A had been in [REDACTED], and that she had previously been taught by Mr Lee in [REDACTED]. The allegation was that Mr Lee had engaged in a series of inappropriate messages with her at this time.

The disciplinary process concluded with Mr Lee receiving a written warning.

The matter was subsequently revisited when the School joined a multi academy trust who referred the matter to the TRA in 2019. Mr Lee's employment at the School concluded in 2020.

In May 2021, whilst the TRA's investigation was ongoing, another pupil, Pupil B's parents reported concerns which arose from what appeared to be Mr Lee's inappropriate attempt to contact her on social media when she was [REDACTED]. Pupil B had been taught by Mr Lee in [REDACTED]. Pupil B spoke to the police and detailed concerns that Mr Lee had engaged in inappropriate behaviour towards her within the classroom whilst he was her teacher.

The police determined that the threshold for considering a criminal offence in respect of this issue was not met, but it was considered by the LADO and a further referral was made to the TRA.

Evidence

The panel heard live evidence from Pupil A in relation to this matter. The panel was also presented with the witness statement of Pupil B that it accepted as hearsay evidence. It also saw documents pertaining to the School's internal investigation, as well as the LADO referral and a report that was made to the police. The panel was also provided with a police summary which outlined the details of their investigation. The panel also saw a statement of agreed facts which was signed by Mr Lee on 6 July 2020, however it was careful to acknowledge the extent to which this could be relied upon, given the fact that the allegations had changed since this was signed by Mr Lee. Mr Lee also provided a written response to allegations, which the panel considered, though it felt it was unclear what allegations Mr Lee was aware of when this was provided, and it was notably undated.

In considering the allegations, the panel formed its own, independent view based on the evidence presented to it.

The panel was mindful of the need to exercise its own independent judgement and not rely upon any opinions recorded. It was for the panel, not anyone else, to draw inferences and conclusions from proven facts in this case.

The panel was also mindful that it had seen some hearsay evidence within this case. In the absence of hearing from these individuals, and being able to test their accounts, this evidence was treated with caution by the panel.

Where such evidence was relied upon, it is addressed in the panel's reasons, below.

In assessing what weight to attach to this hearsay evidence, the panel considered all of the circumstances, including the extent to which it was supported or contradicted by other oral and documentary evidence in this case.

Findings of fact

The findings of fact are as follows:

That whilst employed as a Teacher at Swaffham Bulbeck Primary School ('The School') between 1 September 2016 and 25 September 2020:

- 1. You failed to maintain appropriate professional boundaries with Former Pupil A, including by:**
 - a. Being friends with Former Pupil A on Facebook;**

In respect of this allegation. The panel was satisfied that it had seen screenshots demonstrating that Pupil A and Mr Lee were friends on Facebook at the relevant time. The panel also heard the live evidence of Pupil A which it determined to be consistent with her written account and the other evidence that had been placed before it with regard to these conversations. The panel was therefore satisfied that it was more likely than not, that Mr Lee and Pupil A were friends on Facebook at the relevant time. It noted specifically that Mr Lee was identifiable within a screenshot as exhibited by Pupil A within a list marked "Your friends on Facebook". It also, whilst careful to consider the degree to which it was relevant to these proceedings given the changed nature of the allegations, acknowledged that Mr Lee had accepted that he was friends with Pupil A on Facebook in a statement of agreed facts.

The panel also determined that being friends with Pupil A on Facebook was a breach of professional boundaries. The TRA had presented the panel with the school's code of conduct which stated that it was not advisable to be friends with anyone under the 18 on social media unless they were a relative. It also noted that whilst this guidance was advisory, the nature of the conversations that Mr Lee had with Pupil A was clearly

inappropriate and therefore amounted to a clear breach of professional boundaries. When making this determination, the panel also was cognisant of the fact that Mr Lee was the School's Designated Safeguarding Lead, and he was a senior leader. Therefore, it expected that he would have a higher level of understanding of safeguarding policies and procedures than most teachers.

Accordingly, the panel found Allegation 1a proved.

b. On an unknown date between 6 May 2017 and 12 May 2017:

- i. Referred to Former Pupil A as 'stunning' or words to that effect;**
- ii. Engaged in conversations with Former Pupil A about their romantic relationship;**
- iii. Whilst discussing Former Pupil A's romantic relationships stated:**
 - a. "he didn't deserve to be with you" or words to that effect;**
 - b. "have you slept with your bf" or words to that effect;**
- iv. Attempted to add Former Pupil A on Snapchat;**
- v. Requested a photo of Former Pupil A whilst she was in the bath;**
- vi. Requested a photo of Former Pupil A. when he knew that she was in bed;**

The panel considered the remaining parts of Allegation 1 together, given their inherently connected nature. The panel had seen a series of screenshots as addressed above, which clearly demonstrated that the above conversations took place. The panel heard through her live evidence, how Pupil A demonstrated who each message was attributable to within the screenshots. It was satisfied that she was a compelling witness in respect of this. It noted that it had seen within the screenshots:

- Mr Lee referring to Pupil A as "stunning"
- Mr Lee asking Pupil A about her boyfriend, stating that he "didn't deserve" her and also enquiring about whether they had "slept" together

- Mr Lee requesting a photo of Pupil A whilst she had stated she was in the bath
- Mr Lee requesting a photo of Pupil A when she had said that she was in bed
- Mr Lee providing Pupil A with his Snapchat username and asking her to add him

The panel was also of the view that the messages were all exchanged within the relevant dates, noting that the sequence begins with a screenshot labelled “ [REDACTED]” and then lasting for approximately a week.

The panel was again mindful of the School’s code of conduct that it had seen with regard to social media and considered that it was directly applicable here. The nature of the messages made it evident that Mr Lee had acted in a way that was directly contrary to the policy and guidance that he had received.

The panel considered the nature of the messages to be highly inappropriate given the fact that Mr Lee had previously taught Pupil A and that she was a [REDACTED] pupil at the relevant time. It considered it notable that during her live evidence, Pupil A recounted how she had advised her [REDACTED] of the messages and how this led to an immediate escalation to a senior manager.

The panel therefore determined that given the evidence that it had seen, there had been a significant breach of professional boundaries by Mr Lee.

The panel therefore found Allegations 1b, 1bi, 1bii, 1biiia,1biiib 1biv, 1bv, 1bvi proved.

2. He failed to maintain appropriate professional boundaries with Pupil B, in that

- a. On one or more occasions he hugged Pupil B;**
- b. On one or more occasions he hugged Pupil B so close that his cheek rubbed against Pupil B’s cheek and/or Pupil B could feel his bristles on her cheek;**
- c. On one or more occasions he kissed pupil B on her head;**
- d. He showed favouritism to Pupil B by never telling her off.**

The panel noted that whilst it had admitted the hearsay evidence of Pupil B, it was effectively the sole and decisive evidence in respect of all aspects of this allegation. It considered that whilst it had seen police reports in respect of these allegations, those

police reports were effectively multiple hearsay and were what Pupil B's parents had relayed, having been told the information by Pupil B. However, the panel had also seen an account whereby the police had discussed the account with Pupil B though this also amounted to hearsay for the purposes of these proceedings. The panel accordingly felt that its ability to test this evidence was therefore limited. It also was concerned that during the relevant investigative process, these allegations were never put to Mr Lee, it therefore felt it had a particularly difficult task in terms of how to assess the evidence.

The panel considered that it could not afford significant weight to the statement of Pupil B as whether it was demonstrably reliable was not clear, given the limited ability to test it. It also noted that there were discrepancies with regard to Pupil B's other accounts. It noted for example, that Pupil B had denied being kissed on the head by Mr Lee, but that Pupil B's parents had asserted that this had taken place. The panel also considered that the passage of time from the alleged events to the time of the accounts was significant and had likely impacted upon their reliability.

Ultimately, the panel did not consider that it could address the issue of professional boundaries in respect of this allegation. It considered that issues such as "favouritism" were subjective, and the panel was unable to test this and to get specific examples. The panel was concerned that the way that the hugging was described could certainly appear to be inappropriate, but without further details it did not feel that it could find on balance that it was verifiably a breach of professional boundaries.

Accordingly, it found Allegation 2 not proved.

3. His conduct as may be found proven at allegations 1 and 2 above was of a sexual nature and/or was sexually motivated

Having found all sub-particulars of Allegation 1 proved, the panel went on to consider the question of whether the conduct as set out within the allegation was of a sexual nature and/or sexually motivated.

The panel was of the view that all aspects of Allegation 1 were of a sexual nature. It considered that Facebook was the mechanism through which Mr Lee had sought to engage Pupil A and therefore Allegation 1a was part of the sequence which included the particulars that detailed the content of the messages that were sent. The panel formed the view that messages over the Facebook platform whereby Mr Lee asked personal questions and made comments about Pupil A's romantic and sexual life were self-evidently of a sexual nature. Mr Lee had asked Pupil A for pictures of herself when she in bed and also when she in the bath. He had also asked her to add him on Snapchat and had commented on her appearance. The panel considered that this conduct was all inherently of a sexual nature.

The panel however did not determine that it could consider that the conduct was sexually motivated. Whilst the social media engagement with Pupil A was of a sexual nature, it could not be said to be in pursuance of a future relationship or for sexual gratification. Given the nature of the messages the panel did not consider that there was any indication of sexual gratification on the part of Mr Lee, even where the messages were patently sexual. Equally, it did not feel that it could draw the inference, on the basis of the evidence available, that significant efforts were made by Mr Lee to pursue a future sexual relationship with Pupil A beyond the exchange that it had sight of; notably the conversation was limited. Pupil A took the step of reporting the messages and ending the conversation in a fairly prompt manner.

The panel therefore found Allegation 3 proved in respect of Allegation 1 insofar as the allegations were of a sexual nature.

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

Having found Allegation 1 proved, and having found Allegation 3 proved in respect of the question of whether the conduct within Allegation 1 was of a sexual nature, 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 Lee in relation to the facts found proved, involved breaches of the Teachers’ Standards. The panel considered that, by reference to Part 2, Mr Lee 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
 - ...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...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Lee's conduct displayed behaviours associated with any of the offences listed on page 12 of the Advice.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel found that the offence of sexual communication with a child was directly relevant.

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

The panel noted that the allegations took place outside the education setting. It formed the view that the actions directly engaged the way that Mr Lee fulfilled his teaching role and could have led to pupils being exposed to harmful behaviour. Mr Lee had engaged in communication of a sexual nature with a former pupil and the panel determined that this behaviour was potentially inherently harmful.

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

In relation to whether Mr Lee's actions amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others. It considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on Mr Lee's status as a teacher, potentially damaging the public perception. The panel was of the view that given Mr Lee's responsibilities as Designated Safeguarding Lead and senior leader, the public perception of these matters would be greatly harmed, given that through his position Mr Lee had responsibilities which were directly relevant to the upholding of safeguarding principles.

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

Having found the facts of Allegation 1 and Allegation 3 with regard to the issue of whether the conduct found proved within Allegation 1 was of a sexual nature proved, the panel further found that Mr Lee'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. 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 a 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 protection of other members of the public
- the maintenance of public confidence in the profession
- declaring and upholding proper standards of conduct within the teaching profession

In the light of the panel's findings against Mr Lee which involved inappropriate messaging of a sexual nature with a former pupil, there was a strong public interest consideration in respect of all of the public interest considerations as above.

There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings in relation to Mr Lee's communication of a sexual nature with Pupil A who was a child at the time.

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

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mr Lee in the profession. The panel was mindful that there may be a public interest in any teacher remaining in the teaching profession. Mr Lee had stated that he had an "unblemished record" but the panel did not feel that that it could determine that there was further public interest in him

remaining within the profession, particularly given the nature of the facts found proved. The panel acknowledged that during her live evidence Pupil A recalled valuing Mr Lee as a teacher, however it felt that it had not been provided with other evidence that was indicative of his ability to make a positive contribution to the teaching profession.

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

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 Lee. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- 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;
- 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 acknowledged that this serious misconduct took place online and was of a sexual nature. The panel therefore was sure to afford appropriate weight to it in accordance with the Advice.

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.

The panel noted that there was no evidence to suggest that Mr Lee's actions were not deliberate. The panel also saw no evidence to suggest that Mr Lee's was acting under duress, and, in fact, the panel found his actions to be calculated and motivated.

The panel noted that Mr Lee did have a previously good history and was not previously subject to disciplinary proceedings.

The panel considered that it had received no character evidence, however it acknowledged that through Mr Lee's written statement he had shown some insight with regard to his "horrendous actions" and "grave error". It found it notable that Mr Lee had commented that any disciplinary outcome would potentially "hugely negatively affect me....and be of huge detriment to the School and the pupils that I teach" but it considered that his reflections amounted to minimisation. The assertion made by Mr Lee that "In terms of my personal and professional development, I continue to take full responsibility for the mistake that I made", was of particular concern given the fact that he had referred to his conduct as a "mistake", rather than demonstrating accountability. The panel also was concerned that Mr Lee had stated "I do not believe this incident should prevent me from continuing my work as a teacher". Taking his statement as a whole, the panel was of the view that Mr Lee had not shown any insight in respect of the impact of his actions towards Pupil A and that he had not shown her any empathy. It also felt that his statement was ultimately indicative of a lack of remorse.

The panel also considered that there was a risk of repetition of this conduct. Through the evidence that had been provided to the panel, it was apparent that Mr Lee had engaged in what could be perceived to be escalatory behaviour, including him asking Pupil A to add him to Snapchat. In light of the lack of contrition shown within his written statement, and his total disregard of the School's code of conduct when considered in light of his status as a Designated Safeguarding Lead and senior leader, the panel felt that there were significant ongoing concerns in respect of Mr Lee's conduct.

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 Lee 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 Lee, the fact that he had shown a lack of insight in respect of his conduct 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 certain types of case where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period.

This case concerned:

- any sexual misconduct involving a child;

The panel determined that as established in respect of the allegations found proved, Mr Lee's conduct could be directly characterised as sexual misconduct involving a child and this was serious in nature. The panel noted that Mr Lee had not engaged with the process since 2020 and therefore, it could not properly assess any potential reflection by him. The panel found this particularly concerning, given the severity of the allegations that he faced. As outlined above the panel took into account the risk of repeated behaviour, the lack of contrition and insight towards Pupil A together with the sexual nature of the conduct.

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

Decision and reasons on behalf of the Secretary of State

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

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

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

In this case, the panel has found some of the allegations not proven. I have therefore put those matters entirely from my mind.

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

In particular, the panel has found that Mr Lee 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
 - ...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...
- 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 Lee involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

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

The findings of misconduct are particularly serious as they include a finding that Mr Lee had breached professional boundaries by engaging in communication of a sexual nature with a child who was a former pupil of his.

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 Lee, 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 safeguard pupils. The panel has observed, "There was a strong public interest consideration in respect of the safeguarding and wellbeing of pupils, given the serious findings in relation to Mr Lee's communication of a sexual nature with Pupil A who was a child at the time." 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. The panel has noted that "through Mr Lee's written statement he had shown some insight with regard to his "horrendous actions" and "grave error". However, the panel has concluded that "Taking his statement as a whole, the panel was of the view that Mr Lee had not shown any insight in respect of the impact of his actions towards Pupil A and that he had not shown her any empathy. It also felt that his statement was ultimately indicative of a lack of remorse." In my judgement, the lack of full insight and 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 has observed that "a strong public interest consideration in declaring proper standards of conduct in the profession was also present as the conduct found against Mr Lee was outside that which could reasonably be tolerated." I am particularly mindful of the finding of engaging in sexual communication with a former pupil in this case and the impact that such a finding has on the reputation of the profession.

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

I have considered whether the publication of a finding of unacceptable professional conduct or 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 Lee himself. The panel has noted that it received no character evidence, but commented that "Mr Lee did have a previously good history and was not previously subject to disciplinary proceedings."

A prohibition order would prevent Mr Lee 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 full insight and remorse, and the risk of repetition. The panel has said:

"The panel also considered that there was a risk of repetition of this conduct. Through the evidence that had been provided to the panel, it was apparent that Mr Lee had engaged in what could be perceived to be escalatory behaviour, including him asking Pupil A to add him to Snapchat. In light of the lack of contrition shown

within his written statement, and his total disregard of the School's code of conduct when considered in light of his status as a Designated Safeguarding Lead and senior leader, the panel felt that there were significant ongoing concerns in respect of Mr Lee's conduct."

I have given less weight in my consideration of sanction therefore to the contribution that Mr Lee 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 insight and remorse, 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.

The panel has noted that the Advice indicates that where a case concerns any sexual misconduct involving a child, the public interest will have greater relevance and weigh in favour of not offering a review period. I have considered the panel's comments:

"The panel determined that as established in respect of the allegations found proved, Mr Lee's conduct could be directly characterised as sexual misconduct involving a child and this was serious in nature. The panel noted that Mr Lee had not engaged with the process since 2020 and therefore, it could not properly assess any potential reflection by him. The panel found this particularly concerning, given the severity of the allegations that he faced. As outlined above the panel took into account the risk of repeated behaviour, the lack of contrition and insight towards Pupil A together with the sexual nature of the conduct."

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

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 Michael Lee 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 Lee 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 Lee has a right of appeal to 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 'D Oatley', written in a cursive style.

Decision maker: David Oatley

Date: 13 December 2024

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