

Social Worker: Stewart A Taylor

Registration Number: SW36722

Fitness to Practise

Final Order Review

Please note this is a public copy of the decision.

Final Order being reviewed:

Suspension Order (expiring on 20 December 2020)

Hearing Outcome:

Removal Order (to take effect upon expiry of existing order, on 21 December 2020)

Introduction and attendees

1. This is the first review of a final suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee of the Health and Care Professions Council (HCPC) on 22 November 2019.
2. Mr Taylor (hereafter the social worker) did not attend and was not represented in his absence.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Catherine Audcent	Chair
Belinda Henson	Social Worker Adjudicator
John Brookes	Lay Adjudicator

Hearings Team/Legal Adviser	Role
Jyoti Chand	Hearings Officer
Laura Merrill	Hearings Support Officer
Megan Ashworth	Legal Adviser

Service of Notice:

4. The panel of adjudicators (hereafter the panel) had careful regard to the documents contained in the substantive order review hearing service bundle as follows:
 - A copy of the notice of substantive order review hearing dated 28 October 2020 and addressed to the social worker at his postal and email addresses as they appear on the Social Work England Register;
 - An extract from the Social Work England Register detailing the social worker's postal and email registered addresses;
 - Copies signed Statements of Service, on behalf of Social Work England, confirming that on 28 October 2020, the respective writers sent the notice of hearing by electronic mail and special delivery post to the social worker at the addresses referred to above;

- A copy of the Royal Mail Track and Trace Document indicating “signed for” delivery to the social worker’s registered address at 2:34pm on 30 October 2020.

5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to Rules 16 and 44 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on the social worker in accordance with the Rules.

Proceeding in the absence of the social worker, by way of electronic meeting

7. The notice of hearing informed the social worker that, in line with the current government guidance concerning the COVID-19 virus (Coronavirus) pandemic, the review would take place electronically. The notice stated:

If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 4 November 2020. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and Social Work England may, under Rule 16 of the Fitness to Practise Rules, decide to deal with the review as a meeting. If review is held as a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England’s submissions and a copy of any written submissions you provide.

8. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether or not to proceed in the social worker’s absence and by way of a meeting. This included reference the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*.
9. Rule 16(d) states:

Where the registered social worker makes written submissions and states that they do not intend to attend before the regulator, the regulator may direct that the question of whether an order should be made is determined by means of a meeting.

10. The panel considered all of the information before it. The panel noted that the social worker had been sent notice of today’s hearing, to which he had responded by email on 4 November 2020 and telephone call on 5 November 2020. In the telephone call, the social worker had confirmed that he would not be attending. From this, the panel concluded that he was aware of today’s review and had decided not to attend. The panel considered whether it was appropriate and fair for the review to proceed in the social worker’s absence and by way of an electronic meeting. The panel was satisfied that the social worker had been given an opportunity, under paragraph 15(5) of Schedule 2, to make written submissions or to attend before it and be represented, in order to make oral submissions.

11. The panel was satisfied that the social worker had decided not to attend or to be represented, but had provided some written submissions. The panel was mindful that this was a mandatory review and there was a public interest in proceeding. The panel concluded that the social worker had waived his right to attend. In all the circumstances, the panel considered that it was appropriate and fair to proceed in his absence and by way of electronic meeting, and that it had sufficient information in order to be able to conduct the review fairly on the papers.

Review of the current order:

12. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules.
13. The current order is due to expire at the end of 20 December 2020.

The allegations found proved which resulted in the imposition of the final order were as follows:

14. Whilst registered as a Social Worker with the Health and Care Professions Council:
 1. On 9 May 2017, you received a conditional discharge for an offence of common assault.
 2. You did not declare the conditional discharge listed at particular 1 to the Health and Care Professions Council.
 3. [...]
 4. The matters set out at particulars 1 – 3 amount to misconduct.
 5. 5. By reason of your misconduct, your fitness to practise as a Social Worker is impaired.
15. The Registrant qualified as a Social Worker in 2004. Between July 2015 and August 2016, he was working for South Tyneside Council as an agency Social Worker.
16. On 20 August 2016, the Registrant boarded a train at Newcastle Central Station. He was, on his own admission, intoxicated.
17. The circumstances of the common assault were that whilst seated next to a girl (Person D) aged 14 years, he touched her several times on her thigh without her consent. He was subsequently arrested and charged.

18. On 7 April 2017, at the Newcastle Crown Court, the Registrant pleaded guilty and was convicted of the offence of common assault. On 9 May 2017, he was sentenced and conditionally discharged for 18 months.
19. The Registrant did not declare the conditional discharge to the HCPC. The HCPC was contacted by the Registrant's employers in July 2017 who notified the HCPC of the Registrant's conviction and sentence.
20. At the outset of the HCPC final hearing the social worker had admitted particulars 1 and 2.

The final hearing panel of the HCPC on 22 November 2019 determined the following with regard to impairment:

21. *"The Registrant's insight into his misconduct is limited. He has to some extent recognised the serious nature of such an assault upon a child, describing it as "vile". However, he has displayed little objective remorse for the potential impact upon her, nor has he offered to her any apology.*
22. *The Panel is aware that the Registrant has no previous criminal convictions, and that there has been no report of repetition of the type of offence which led to the conditional discharge. However, although an isolated incident, it was by its very nature serious.*
23. *Misconduct of this nature is not easy to remedy, but there is nothing to indicate that the Registrant has reflected upon it in a meaningful way focusing instead on his regret on pleading guilty to the offence.*
24. *In all the circumstances, as set out above, particularly in relation to its concerns about insight, reflection and remorse the Panel cannot be satisfied that there would be no repetition of misconduct of this nature. The Panel has therefore concluded that, in regard to the personal component, the Registrant's fitness to practise is currently impaired.*
25. *In all the circumstances, the Panel has also concluded that a finding of current impairment is required in the wider public interest. An informed member of the public, aware of the full facts of the case, would view this misconduct, particularly in regard to the circumstances giving rise to the conditional discharge, as extremely serious. Furthermore, public confidence in the profession and in the regulatory process would be undermined if a finding of current impairment were not made. Such a finding is also necessary in order to declare and uphold the proper standards of conduct and of behaviour required of a social worker when acting in either his professional or in his private capacity".*

The final hearing panel on 22 November 2019 determined the following with regard to sanction:

26. *“The Panel therefore considered a Suspension Order. It concluded that suspension for the maximum period of 12 months would be sufficient, appropriate and proportionate as a sanction. It would protect service users, and address public interest concerns. Furthermore, it would send a message to the profession that misconduct of this nature by a social worker, professionally or privately, particularly involving a child, is wholly unacceptable. Furthermore, such an order would be an opportunity for the Registrant to reflect upon his misconduct, its potential effect upon a child and its impact upon the profession and the public interest.*
27. *The Panel did consider a Striking Off Order, but concluded that, in the current circumstances, this would be disproportionate.*
28. *The Panel therefore determined to impose a Suspension Order for the maximum period of 12 months. This period of suspension will protect service users and will address the serious public interest concerns.*
29. *Any reviewing Panel would doubtless be assisted by the Registrant’s attendance at review and by his written reflection about the likely effect that misconduct of this nature could have upon a child and upon the public’s perception of the profession”.*

Social Work England submissions:

30. The noted all the documentation presented the consideration at this review. It took into account the submissions of Social Work England, as set out in the notice of review as follows:

Social Work England invites the Panel to impose a Removal Order. Although the Social Worker has engaged with Social Work England, he has not provided any evidence of remediation or developed insight and has further expressed that he does not wish to return to the profession. The reviewing Panel do not have any information that undermines the finding of impairment made in 2019 and in our submission it would require more than simple passage of time since the underlying conduct to conclude that the Social Worker’s fitness to practise is no longer impaired. The fact that he has said he does not wish to return to the profession makes a Conditions of Practice Order unsuitable and unworkable.

A further period of suspension would serve no purpose and would only delay the inevitable. It is open to the Social Worker to engage with the hearing process and provide evidence of insight and remediation and display a willingness to return to practice. It is a matter for the Adjudicators, if such circumstances arise and they

may consider a Removal Order to be disproportionate and Conditions of Practice could be sufficient to address any identified risk to the public.

Social Worker submissions:

31. The social worker sent written submissions by email dated 4 November 2020.

Panel decision and reasons on current impairment:

32. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account all of the material before it, including: the decision of the previous panel; the email and telephone notes of the social worker; and the written submissions from both Social Work England and the social worker. It has exercised its own judgement in relation to the question of current impairment.
33. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.
34. The panel first considered whether the social worker's fitness to practise remains impaired.
35. The panel noted that the original panel had been of the view that a reviewing panel may be assisted by the social worker's attendance at review and by his written reflection about the likely effect that misconduct of this nature could have upon a child and upon the public's perception of the profession. This panel noted the explanation given by the social worker for his non-attendance and had regard to his written submissions. The panel considered that the social worker's written submissions partly addressed the matters recommended by previous panel, but did not do so fully. The panel considered that the social worker had demonstrated some insight into the potential impact of his actions on the young person, but he had not addressed whether there may have been both physical and psychological harm to her. Further, the panel did not consider that the social worker had fully developed an understanding of the impact of his behaviour on the reputation of the profession.
36. The panel considered that it had little material on which to comprehensively evaluate the risk of repetition. It noted that the offence had occurred over four years ago, and there was no suggestion that there had been any repetition of similar behaviour since that time. The panel also noted the devastating impact the criminal proceedings and conviction had had on the social worker's life, which it accepted would have been a salutary lesson to the social worker in itself. However, the panel did not have sufficient information from the social worker, to satisfy it that he had

remediated his misconduct. The panel concluded that there was a low risk of repetition, but in the absence of more information from the social worker, it was not in a position to conclude that there was no risk of repetition.

37. The panel considered that the social worker's assertion that he had no intention of working as a social worker in the future, indicated that he was not planning to remediate his misconduct and discharge the onus on him to demonstrate that he was fit to practise unrestricted.

38. In all the circumstances, the panel considered that the social worker's fitness to practise remains impaired on the grounds of public protection, which includes the components of promoting and maintaining public confidence in the profession and professional standards.

Decision and reasons on sanction:

39. Having found the social worker's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted the submission of Social Work England that removal was the appropriate sanction, and the response of the social worker that he did not intend to work as a social worker in the future. It had regard to the Sanctions Guidance issued by Social Work England and accepted the advice of the legal adviser.

40. The panel was mindful that the purpose of any sanction is not to punish the social worker, but to protect the public and the wider public interest. The panel applied the principle of proportionality by weighing the social worker's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action, Advice, or Warning

41. The panel concluded that in the absence of full insight and remediation, it would be inappropriate to take no action, or to issue advice or a warning there. None of these options would be sufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Conditions of Practice Order

42. The panel went on to consider a conditions of practice Order. The panel noted the observations of the previous panel that whilst the misconduct was difficult to remediate, it was potentially capable of being remedied. However, given the social worker's stated intention not to practise as a social worker in the future, the panel did not consider that conditions were workable.

Suspension Order

43. Having determined that a conditions of practice order would not be appropriate, the panel went on to consider whether a suspension order would be the appropriate and proportionate response. It considered that such an order would protect the public for the period for which it was in place. However, the panel also questioned whether it would satisfy the public interest, in terms of maintaining public confidence in the profession. The panel considered that this was a social worker who had expressed a firm desire to Social Work England to leave the profession. Consequently, he has not and is not intending to remediate his social work practice. The panel accepted the social worker's stated intention to leave the profession, and therefore there was little point in extending the suspension order. Further, the panel did not consider that the public interest would be satisfied in keeping a social worker on the register (albeit suspended) in circumstances where that social worker was not minded to develop his insight or complete any remediation. Consequently, the panel did not consider that a suspension order was the appropriate and proportionate sanction.

Removal Order

44. Having ruled out a suspension order, the panel determined to impose a removal order. It was satisfied that this was the only sanction sufficient to meet the public interest in maintaining the reputation of the profession.

Right of Appeal:

1. Under paragraph 16 (1) (b) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social Worker may appeal to the High Court against:

1. the decision of adjudicators:

- i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
- ii. not to revoke or vary such an order,
- iii. to make a final order.

2. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

2. Under regulation 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.

3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the social worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.

This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019.

Review of final orders

4. Under regulation 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:
 - 15 (2) – The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
 - 15 (3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.
5. Under rule 16 (aa) of Social Work England’s fitness to practise rules, a registered social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

European alert mechanism

6. In accordance with Regulation 67 of the European Union (Recognition of Professional Qualifications) Regulations 2015, Social Work England will inform the competent authorities in all other EEA States that the social worker’s right to practise has been prohibited.
7. The social worker may appeal to the County Court against Social Work England’s decision to do so. Any appeal must be made within 28 days of the date when this notice is served on the social worker. This right of appeal is separate from the social worker’s right to appeal against the decision and order of the panel.