

Social Worker: Debra Julie Howe

Registration Number: SW78775

Fitness to Practise

Final Order Review Meeting:

Meeting Venue: Remote meeting

Date of meeting: 4 December 2020

Final Order being reviewed:

Suspension Order – (due to expire on 20 January 2021)

Hearing Outcome:

Removal Order (to take effect upon expiry of existing order)

Introduction and attendees

1. This is the third 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 June 2018. The first review took place on 20 June 2019 when the suspension order was extended for 12 months. The second review took place on 4 June 2020 when the suspension order was extended by a further 6 months.
2. Ms Howe (hereafter referred to as the social worker) did not attend and was not represented in her 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
Rachel Cook	Chair
Ellie Taylor	Social Worker Adjudicator
Colette Neville	Lay Adjudicator

Hearings Team/Legal Adviser	Role
Tom Stoker	Hearings Officer
Robbie Morgan	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 which included the following:
 - A copy of the notice of substantive order review hearing dated 23 November 2020 and addressed to the social worker at her 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 registered email and postal addresses;

- A copy of a signed Statement of Service dated 2 December 2020, on behalf of Social Work England, confirming that on 23 November 2020, a Paralegal at Capsticks sent the notice by special next day delivery and email 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 postal address at 12:50pm on 24 November 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 of the Fitness to Practise Rules 2019 (the Rules) 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 by way of electronic meeting:

7. The notice of final order review 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 1 December 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 the review is dealt with by way of a meeting the adjudicators will be provided with a copy of this letter setting out our 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 to take into account when considering whether or not to proceed in the social worker’s absence and by way of a meeting. She advised that the panel should satisfy itself that proceeding in the absence of the social worker by way of an electronic meeting was fair in the circumstances, and that it had sufficient information to do so.

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 she had responded initially on 24 November 2020 by email. On 2 December 2020 she sent a further email,

attaching an online submissions document, which was dated 30 November 2020. In that email, the social worker had confirmed that she did not intend to attend this review. From this, the panel concluded that she 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 of the Social Workers Regulations 2018, 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 take up the opportunity offered to her to attend or to be represented; instead she had provided some written submissions. The panel noted that it also had the benefit of the written submissions from Social Work England which had been set out in the notice sent to the social worker. The panel bore in mind that this was a mandatory review and there was a public interest in reviewing the order before its expiry. The panel concluded that the social worker had made an informed decision not to take up the opportunity to attend the review. In all the circumstances, the panel considered that it was appropriate and fair to proceed in her 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 January 2021.

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

Whilst registered as a Social Worker and employed with Somerset County Council, you:

1. In respect of Service User A:
 - a) Allowed Service User A's transfer to a new residential care home on or about 29 April 2016 and did not:
 - i. complete and/or record an adequate funding application prior to Service User A's

transfer;

- ii. submit a funding application prior to the Service User's transfer;
- iii. complete and/or record a negotiated fee for Service User A prior to her transfer;
- iv. complete and/or record the financial agreement and purchase order in a timely manner in that they were completed after Service User A's transfer on or about 29 April 2016.

b) Did not complete and/or record an adequate assessment of Service User A in that:

- i. you used a pre-existing 'Understanding You D: How you live (UY:D)' as a basis for your assessment;
- ii. the assessment documentation completed in or around May 2016 was not compliant with the Care Act;
- iii. you did not complete and/or record your reasoning for making recommendation about Service User A's residential care;
- iv. you did not make an independent assessment of Service User A's care needs;
- v. you did not consider alternative care options for Service User A;
- vi. you did not take sufficient account of Service User A's capacity or wishes about her placement.

c) Submitted a funding application for Service User A on or about 13 May 2016 which was inadequate and/or incomplete;

- d) did not obtain Service User A's consent and/or personal views regarding her potential transfer to an alternative nursing home until you were instructed to do so on or about 11 July 2016;
- e) Did not act upon information received on 13 May 2016 that Service User A's panel application had not been accepted, in that you did not complete and/or record a comprehensive action plan regarding Service User A's care arrangements before going on annual leave on or about 13 May 2016;
- f) Did not communicate effectively with Service User A and/or her family in that you:
 - i. HCPC OFFERED NO EVIDENCE
 - ii. Not proved
 - iii. Did not inform Service User A and/or her family of the next steps following the rejection of her funding application.

2. In respect of Service User B, you:

- a) Did not complete and/or record an adequate and accurate UY: assessment documentation in relation to Service User B on or about 21 July 2016, in that you:
 - i. did not record your professional judgment about Service User B's likelihood of suicide;
 - ii. did not record an analysis of Service User B's vulnerability, risk of harm or likelihood of harm;
 - iii. did not record the assault on Service User B, his dogs and his property;
 - iv. Not proved
 - v. HCPC OFFERED NO EVIDENCE

- vi. did not record information in the section of the assessment form relating to eligibility, professional conclusions and support planning.
 - b) Not proved
 - c) Did not conduct an adequate assessment about the concerns about Service User B's safety in his home and whether he felt at risk;
 - d) Did not take into account and/or seek professional advice regarding the impact of Service User B's diagnosis in relation to his own assessment regarding risk;
3. In relation to Service User C, you:
- a) Not proved
 - b) Did not complete and/or record an adequate UY: D dated 12 May 2016 in that it did not contain sufficient information relating to:
 - i. the care provided to Service User C at home;
 - ii. why Service User C's home care failed;
 - iii. what rehab support was given to Service User C.
 - c) Not proved
4. In relation to Service User D, you:
- a) Not proved
 - b) did not complete and/or record an adequate UY: N1 assessment in that your assessment contained insubstantial evidence and minimal analysis;

- c) did not complete a best interest assessment for Service User D.
5. In relation to Service User E, you did not complete and/or record an adequate and/or comprehensive UY: D assessment in that:
- a) you indicated that you had requested advice from the Sensory Loss and Community Health teams but did not include any information received in your final assessment;
- b) the UY:D assessment contained gaps in the information relating to Service User E's need for specialist sensory loss input or guidance.
6. In relation to Service User F, you did not complete and/ or record a UY: D assessment, although you were instructed to do so.
7. Your actions described in paragraphs 1 – 6 constitute misconduct and/or lack of competence.
8. By reason of your misconduct and/or lack of competence your fitness to practice is impaired.
14. The Registrant was employed as a Social Worker with Adult Social Care Taunton Community Team. She had been in this role since 2012. The Registrant's line manager had developed serious concerns about her practice shortly after assuming management responsibility for her, and had managed her over a three-year period. There had been significant performance issues with the Registrant throughout her employment with the Council, and attempts had been made to address these issues by previous managers through a reduced caseload, personal improvement plans and support including mentoring.

The final hearing panel (HCPC) on 22 June 2018 determined the following with regard to impairment:

- *The Registrant's conduct was both serious and placed a number of Service Users at risk, particularly: SUA, who had to move care home on four occasions; SUB, with a risk of suicide; and the failure to take SUE's needs into account;*
- *The Registrant's written submissions demonstrate very little insight into her failings or consideration of the impact her actions had on Service Users;*

- *The lack of competence was repeated and there is no evidence of remediation; there is therefore a high risk of repetition. The Panel took the view that the lack of competence was capable of being remedied, but that it had seen no evidence that the Registrant had taken any steps in this regard;*
- *The Registrant was provided with a good deal of support by the Council, including a mentor, additional supervision, and a reduced caseload;*
- *The Registrant has provided no evidence of how she has kept her skills up-to-date, or of any Continuing Professional Development (“CPD”) or training since she was suspended by the Council in July 2016;*
- *The Registrant has provided no evidence regarding her present employment;*
- *The Registrant has provided no documentary or character evidence demonstrating any modifications in her practice since she left the Council;*
- *The Registrant’s actions have brought the reputation of the Council, and the Social Work profession, into disrepute, damaging public confidence in the profession;*
- *The Registrant has breached a fundamental tenet of the profession by not placing Service Users at the forefront of her practice and failing to act in their best interests;*
- *The Panel also had regard to the need to uphold proper standards of behaviour in concluding that the public component of impairment is clearly established. The Panel concluded that confidence in the Social Work profession would be undermined if there was no finding of impairment, given the seriousness of the lack of competence which has been identified.*

The final hearing panel (HCPC) determined the following with regard to sanction:

150. *The Panel next considered a Suspension Order for a period of 12 months and concluded that this was the most appropriate sanction, for the following reasons:*

- *The sanction is the minimum required to provide adequate public protection, to maintain confidence in the profession, and to have a suitable deterrent effect upon the profession at large;*
- *The sanction provides the Registrant with an opportunity to remediate her lack of competence, with the potential of a return to Social Work;*
- *The sanction strikes a fair balance between the Registrant’s interests and the public interest, having regard to the mitigating and aggravating features.*

The previous reviewing panel (2nd review) on 4 June 2020 determined the following with regard to impairment and sanction:

23. The panel conducted a comprehensive review today. It noted that the social worker has not engaged since 17 May 2019 when she enquired for a second time about voluntary removal from the Register as she no longer wished to be a social worker. The panel noted that the social worker was sent information on 24 May 2019 regarding reaching a voluntary removal agreement but she has not engaged since. The panel also noted the information from Social Work England that the social worker has not engaged despite having been sent communications on 23 December 2019 and 18 March 2020 requesting her to provide any evidence she wished to by 1 April 2020 for the forthcoming review. In particular the information identified by both panels in June 2018 and June 2019 as being of assistance to a review panel has not been provided by the social worker for this reviewing panel.

24. Accordingly, the panel concluded that there has been no change in circumstances, except that a longer period has now elapsed since the social worker completed professional development or worked as a social worker. The panel was satisfied that the social worker's fitness to practise remains impaired. There has been no change in the risks identified by the original HCPC panel. These risks have the potential to cause serious harm to vulnerable service users. The social worker's fitness to practise therefore remains impaired because of the ongoing risk of harm to members of the public and the wider public interest including the need to maintain public confidence in the social work profession. The panel was not satisfied that the social worker's fitness to practise is no longer impaired.

15. The second reviewing panel decided that the only appropriate and proportionate response was a further suspension order for six months.

Social Work England submissions:

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

Since the last review the Social Worker has provided no evidence of insight, remediation or remorse for the Panel to consider. In addition, she has declined to provide a response to the previous Panel's recommendations. On this basis that Panel may consider that there has been no reduction in the risk of the Social Worker returning to practise as a social worker without an order in place. Social England submits that, in the absence of meaningful engagement from the Social Worker,

there are no workable conditions suitable that would allow for the order to be amended to a Conditions of Practice Order, therefore a further period of suspension or a removal order would be the most appropriate outcomes.

However, in light of the Social Worker's recent response which explicitly states that they have no intention of returning to the profession, Social Work England would invite the Panel to consider replacing the current Suspension Order with a Removal Order.

Social Worker submissions:

17. The social worker sent written submissions, dated 30 November 2020, confirming:

'I no longer wish to practise as a qualified social worker. Please remove my name from the social work register. Thank you.'

18. The social worker also confirmed this in an email dated 2 December 2020. The social worker had previously inquired to Social Work England (in September 2020) about voluntarily removal from the register and whether it was an option open to her as she had no intention of returning to social work. Social Work England informed her that voluntary removal was not an option available to her on 9 September 2020.

Panel decision and reasons on current impairment:

19. 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 decisions of the previous panels; the email correspondence with 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.
20. 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.
21. The panel first considered whether the social worker's fitness to practise remains impaired.
22. The panel noted the observations of the substantive panel of the HCPC to the effect that the social worker's lack of competence was potentially capable of remediation. Her lack of competence was considered to be a lack of skills, knowledge and understanding, which led her to struggle to meet the expectations of her managers. The substantive panel had no evidence of any insight or remediation from the social

worker. It set out a number of suggestions for the social worker to follow which may assist future reviewing panels in assessing her fitness to practise.

23. At the first review on 20 June 2019, the first review panel had no new information from the social worker and therefore no indication that she had attempted to remediate her practice or gained insight into her failings. The first review panel reiterated the suggestions of the substantive panel. At the second review on 4 June 2020, the second review panel had no information from the social worker to indicate that she had attempted to remediate her practice or gained insight into her failings. The second review panel also set out suggestions of what may assist a future reviewing panel.
24. Today is the third review of the substantive order and the panel has no evidence of any remediation undertaken by the social worker and no indication that she has gained any insight into her failings. The panel noted that the social worker now faced the added hurdle of not having practised as a social worker since 2018, and would have become de-skilled over that time. There was no evidence that the social worker had taken any steps to remediate her practice, for example by working in a similar field. In the absence of any evidence of insight and remediation, the panel was of the view that there was a high risk of repetition of the failings which led to the finding of lack of competence.
25. The panel considered the social worker's submissions that she no longer wished to practise as a qualified social worker and asked to be removed from the register. The panel noted that she had emailed the HCPC as far back as 3 April 2019 stating that she had no intention of returning to social work practice. This and her current submissions indicated that she was not planning to remediate her lack of competence and discharge the onus on her to demonstrate that she was fit to practise unrestricted.
26. 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:

27. 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 she did not intend to work as a social worker in the future. The panel had regard to the Sanctions Guidance issued by Social Work England and accepted the advice of the legal adviser.

28. 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

29. The panel concluded that in the absence of insight and remediation, it would be inappropriate to take no action, or to issue advice or a warning. 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

30. The panel went on to consider a conditions of practice order. The panel noted the observations of the previous panels that the lack of competence was potentially capable of being remedied. The panel considered that conditions may have initially been appropriate had the social worker demonstrated a willingness to remediate. However, in the two and a half years since the substantive suspension order had been imposed, the social worker had not demonstrated any such willingness. Furthermore, in that time she would have become more and more de-skilled. The panel considered that the position today was that it was not possible to formulate achievable or workable conditions which would sufficiently protect the public.

Suspension Order

31. 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 acknowledged 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 repeatedly expressed her wish not to practise as a social worker. Consequently, she has not and appears to have no intention of remediating her social work practice. The panel did not consider that the public interest would be addressed in keeping a social worker on the register (albeit suspended) in circumstances where that social worker was not minded to develop her insight or undertake any remediation. Consequently, the panel did not consider that a suspension order was the appropriate and proportionate sanction.

Removal Order

32. 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 satisfy public

protection, which includes the components of maintaining the reputation of the profession and upholding standards.

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.

