

Social Worker: Victoria M Peplow
Registration Number: SW95338

Fitness to Practise Final Order Review Meeting:

Meeting Venue: Remote meeting
Date of meeting: Wednesday 13 January 2021

Final Order being reviewed:
Suspension Order – expiring 28 February 2021

Hearing Outcome:
Removal Order – to take effect upon expiry of the current suspension order.

Introduction and attendees:

1. This is the second 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 1 August 2019. This was extended for a further 6 months by a panel of adjudicators at a review meeting held on 16 July 2020.
2. Ms Peplow did not attend and was not represented.
3. Social Work England was not represented because this review has been listed as a meeting.

Adjudicators	Role
Jayne Wheat	Chair
Anne Rice	Social Worker Adjudicator
Peter Swain	Lay Adjudicator

Hearings Team/Legal Adviser	Role
Kathryn Tinsley	Hearings Officer
Heather Hibbins	Hearings Support Officer
Andrew Lewis	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 23 December 2020 and addressed to Ms Peplow at her email address as it appears on the Social Work England Register;
 - An extract from the Social Work England Register detailing Ms Peplow’s registered email address;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 23 December 2020 the writer sent by email to Ms Peplow at the email address referred to above, a Notice of Hearing and related documents;
 - The panel noted that the notice complied with Social Work England Fitness to Practise Rules 2019 (“the Rules”) regarding notices and informed Ms Peplow

that adjudicators had been appointed to review the suspension order to which she was subject, at 9.30 am on 13 January 2021, at an “electronic hearing”.

5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to Rules 16, 43 and 44 (iv), 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 Ms Peplow in accordance with the Rules.

Proceeding with the final order review as a 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 4 January 2021. 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 [sic] Social Work England’s submissions and a copy of any written submissions you provide.”
8. The panel took into account the email response sent by Ms Peplow on 05 January 2021 at 13:04 in which she states, *“I do not wish to participate in any review or hearing, as I have long moved on from this unfortunate incident.”*
9. The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Rules which provides:

“Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting.”
10. The panel decided that the practical effect of proceeding as a meeting meant that the review would be conducted without any submissions from Ms Peplow and without her express agreement. The panel therefore had regard to the test for considering whether to proceed in the absence of a social worker at a hearing. The panel had regard to Rule 43 which provides *“Where the registered social worker does not attend a hearing and is not represented, the regulator or adjudicators, as the case may be, may proceed to determine the matter, including in circumstances where the registered social worker has previously indicated they wished to attend, if they are satisfied that the registered social worker has been served or all reasonable efforts have been made to serve the registered social worker with notice of the hearing in accordance with these Rules.”*

11. The panel also had regard to the Social Work England guidance, “Service of Notices and Proceeding in the Absence of the Social Worker, last updated 5 December 2019”, the decision of the *House of Lords in R v Jones [2002] UKHL 5* and the further guidance given to panels by the Court of Appeal in *GMC v Adeogba [2016] EWCA Civ 162*. These include the following:
- The discretion to continue in the absence of the social worker should be exercised with great caution and with close regard to the fairness of the proceedings.
 - The decision about whether or not to proceed must be guided by Social Work England’s primary objective of protecting the public.
 - Fairness to the social worker is very important, but so is fairness to Social Work England and the public.
 - Whether all reasonable efforts have been taken to serve the social worker with notice.
 - The Panel should consider the nature of the social worker’s absence and in particular whether it was voluntary.
 - Whether there is any reason to believe the social worker would attend or make submissions at a subsequent hearing.
 - The duty of professionals to engage with their regulator.
12. Having regard to Ms Peplow’s email of 5 January 2021, the panel was satisfied that Ms Peplow knew of the review and had voluntarily absented herself, so waiving her right to attend.
13. The panel was mindful that there was likely be a disadvantage to Ms Peplow in not attending or making written submissions but it balanced that against both its finding that Ms Peplow had chosen not to attend, despite being a registered professional with an obligation to cooperate with her regulator, and the panel’s public duty to deal with a mandatory review of a suspension order before it expires. The panel also found, having regard to Ms Peplow’s email of 5 January, that there was no likelihood that an adjournment would lead to Ms Peplow attending on a subsequent occasion.
14. Accordingly, the panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

Review of the current order:

15. 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.

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

Whilst employed by Worcestershire County Council in the capacity of Social Worker, you:

- (1) On 13 November 2017, smoked marijuana:
 - a) During your working hours;
 - b) In the vicinity of Colleague 1, a student that you were supervising;
 - c) ... (Not Proved)
- (2) On unknown dates, used marijuana on one or more occasions.
- (3) The matters set out at paragraphs 1 and 2 amount to misconduct.
- (4) By reason of your misconduct, your fitness to practise is impaired.

Background:

16. Ms Peplow began her employment at Worcestershire County Council ('the Council') on 16 March 2015, working as a Level 3 social worker within the Children with Disabilities ('CwD') team.
17. She started as a newly qualified social worker and performed her 'Assessed and Supported Year' in Employment with the Council, before becoming a registered social worker on 1 December 2016.
18. The Particulars of the Allegation arose from an incident which took place on 13 November 2017 when Ms Peplow smoked marijuana during her working hours and in the vicinity of FW (student social worker she was supervising). At the time, she was working from home and FW was with her at her house. Concerns were also raised regarding Ms Peplow's use of marijuana on previous occasions.
19. Following an internal investigation, the matter was subsequently referred to the HCPC.

The substantive hearing:

20. The final hearing panel on 1 August 2019 determined the following with regard to impairment:
 - "105. The Registrant's conduct is potentially remediable. However, there is no evidence before the Panel that the Registrant has sought in any way to remedy her shortcomings.
 - 106. The evidence that the Panel has received from the Registrant is that she regretted her actions on 13 November 2017, in respect of the impact on FW.

However, having smoked marijuana for many years she does not appear to understand or accept that smoking an illegal substance is wrong, or a breach of professional standards. Instead, she has sought to use alleviation of her pain as a justification for using marijuana. The Panel therefore believes her conduct is likely to recur.

21. The panel also made a finding of impairment on public interest grounds in order to maintain public confidence in the profession and the Regulator.

22. With regard to sanction, the panel identified the following aggravating factors:

- the Registrant's smoking of marijuana was illegal and not isolated;
- there was potential for the Registrant's professional judgement to be impaired as a result of her drug misuse; and
- the Registrant abused the position of power between supervisor and student when she asked the student to "keep a secret" and hide her drug misuse;

23. The panel also identified the following mitigating factors:

- the Registrant had a previously unblemished social work career, with no previous disciplinary record;
- the Registrant had made early admissions during the Council's investigation and also during the HCPC investigation;
- the Registrant's colleagues and line manager gave positive evidence to the Panel in respect of her enthusiasm and commitment for her work and her role. The Panel also noted the documents, provided by the Registrant, regarding positive feedback that she had received from an Independent Reviewing Officer regarding a specific case that the Registrant handled very well; and
- the Registrant had endured a challenging time with her health, which was confirmed by medical practitioners, and which, she claimed, underpinned her use of marijuana to alleviate her pain and her poor judgement.

24. The panel imposed a suspension order for a period of 12 months and said that, *"Such an order would provide the necessary degree of protection for the public, whilst leaving open the possibility of remediation and improved insight in the event that the Registrant decided to return to practise as a Social Worker. Given the serious nature of the Registrant's breaches, the Panel considered that a Suspension Order would reflect the seriousness of the Registrant's failings and send out a clear message that such conduct was not to be tolerated."*

The First Review Hearing

25. At the first review hearing Ms Peplow did not attend but submitted a reflective piece dated 14 June 2020 in which she admitted “serious failings” and spoke of her “humiliation and shame”. She stated: “I hope that one day I will be allowed to practise as a social worker again.”
26. The reviewing panel concluded that Ms Peplow’s fitness to practise remained impaired and made the following findings: *“The panel was encouraged by the social worker’s engagement with Social Work England, and the developing insight apparent in her reflective piece dated 14 June 2020. However, the panel was of the view that she has not yet demonstrated sufficient insight into the risks associated with her use of marijuana and how it may have placed vulnerable service users at risk of harm. In addition, she has not provided: medical evidence from her general practitioner in relation to her ability to control/ manage her pain through the use of prescribed medication; evidence of her on-going professional development as a social worker; and a testimonial from her current employer. Her failure to provide this material means that there is no independent evidence available to the panel upon which it could be satisfied that she would not use marijuana again in the future. Accordingly, the panel concluded that there remains a risk of repetition of the misconduct and a consequential risk of harm to service users.”*
27. Turning to sanction, the panel imposed a further suspension order for a period of 6 months and said that *“this further period of suspension was appropriate and proportionate as it would allow sufficient time for the social worker to provide further evidence of insight and remediation into her misconduct.”*
28. The panel also set out the following guidance to Ms Peplow with regard to this review hearing: “It would be of assistance to that panel if she was able to provide evidence that she has undertaken significant steps that would facilitate a safe and effective return to the register without restriction. This may include:
- *A further reflective piece dealing with the risks associated with using cannabis and the impact it could have on service users;*
 - *Evidence from her general practitioner or other suitable medical practitioner on her current pain management strategy;*
 - *Scientific evidence by way of hair testing to show that she has remained abstinent from the use of cannabis;*
 - *Evidence of on-going professional development and any CPD she is undertaking; and*
 - *Up to date testimonials from her current employer.*

Matters arising since the first review hearing:

29. Since the last review hearing, Social Work England has written to Ms Peplow but received no material from her of the sort suggested above. However, it did receive an email from Ms Peplow dated 14 September 2020, in the following terms:

"Hi Nicole Thanks for your email. Can I ask; what happens if I don't want to go back to social work?"

This incident happened nearly 3 years ago now and I have moved on happily. I'd like it all be over with once and for all.

I don't have any plans to go back to it you see; I'm very happy I'm the job role I'm in and see myself making a good career of it. So I just wondered what happens if I report to not wanting to go back to social work. Can I request to have my registration and title stripped permanently?"

Kind Regards

Victoria Peplow"

30. Social Work England replied in the following terms:

"Hi Victoria, Thank you for your email.

At this stage it is not an option for you to voluntary remove yourself from the register, however, if you would like the panel to consider your removal at your next review, we would simply ask that you provide a clear written submission to me stating that you want to be removed and do not wish to practise social work again. With this information, at the next review (likely to take place in February 2021), a panel will then be provided with your submission and can be asked to consider a removal order. It may also be helpful to include the reasons why and to confirm that you have seen the last panel decision from 16th July 2020.

I will write to you closer to the time to formally let you know when the review is due and to request any further information you would like to submit.

In the meantime, if you require any further information or you wish to make the above submission, please do not hesitate to contact me.

Kind regards, "

31. The only other communication from Ms Peplow has been her email of 5 January 2021, in which she said, *"I do not wish to participate in any review or hearing, as I have long moved on from this unfortunate incident."*

This review hearing:

32. At this review hearing the panel considered all the material in the hearing bundle, including the decisions of the previous panels and the communications set out above.
33. The panel read the submissions of Social Work England, which were set out in the notice of hearing letter dated 23 December 2020 which it sent to Ms Peplow:

“The Panel is invited to consider making a removal order. The Social Worker has not provided the relevant evidence to satisfy the panel that she has remediated her misconduct and is capable of safe and effective practise. She has been subject to an order of suspension since August 2019. She has not provided any further materials since the previous review, in particular she has not provided any of the materials recommended at the previous hearing.

The Social Worker has also indicated her desire to be removed the register. It is understood that, as a result, the Social Worker does not intend to provide further material to any future panels.”

34. The panel received no submissions from Ms Peplow.

The panel decision and reasons on current impairment:

35. 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 the decision of the Substantive hearing Panel. However, it has exercised its own judgement in relation to the question of current impairment.
36. The panel received the advice of the legal adviser, which it incorporated into the decision set out below.
37. First, it reminded itself of its powers under Paragraph 15 of schedule 2, part 5 of the Social Worker Regulations 2018 to extend the period for which the order has effect or impose any order the first panel could have imposed.
38. It reminded itself of the importance of a review hearing, described by the Supreme Court in *Khan v GPhC [2016] UKSC 64* as “the ‘teeth’ behind the sanctions other than erasure and should focus the [doctor’s] mind on the need to undertake any necessary remediation”.
39. It followed the ordered sequence of decision making set out by Blake J in *Abrahaem v General Medical Council [2008] EWHC 183*:
- i. address whether the fitness to practise is impaired before considering conditions.
 - ii. whether all the concerns raised in the original finding of impairment have been sufficiently addressed to the panel's satisfaction.

- iii. In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision or other achievement sufficiently addressed the past impairments.

40. It bore in mind the guidance given to panels by the Supreme Court in *Khan* (above), to focus on the registrant's current fitness to practise:

"The guidance therefore makes clear that the focus of a review is upon the current fitness of the registrant to resume practice, judged in the light of what he has, or has not, achieved since the date of the suspension. The review committee will note the particular concerns articulated by the original committee and seek to discern what steps, if any, the registrant has taken to allay them during the period of his suspension."

41. The panel had regard to the over-arching objective of protecting the public which involves the pursuit of the following objectives:

- to protect, promote and maintain the health, safety and well-being of the public;
- to promote and maintain public confidence in the profession regulated under this Order; and
- to promote and maintain proper professional standards of conduct for members of the profession.

42. It also bore in mind that in deciding whether Ms Peplow's fitness to practise is still impaired it should follow the approach of Dame Janet Smith endorsed by the High Court in *CHRE v NMC and P Grant* [2011] EWHC 927 (Admin): *"Do our findings of fact in respect of the (registrant's) misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

- *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- *has in the past brought and/or is liable in the future to bring theprofession into disrepute; and/or*
- *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- *(this relates to the Registrants honesty and integrity, which are not in question in this case).*

43. The panel considered first whether Ms Peplow's fitness to practise remains impaired. It bore in mind that there had already been a finding of impairment and asked itself whether

Ms Peplow had demonstrated that she had taken sufficient steps to allay the concerns of the Substantive Panel.

44. The panel noted that the substantive hearing panel had not found that Ms Peplow's fitness to practise was irreparably impaired at that time, albeit that she had not engaged in the substantive hearing. The panel noted that the first review panel had read a reflective piece written by Ms Peplow, found that it *"was encouraged by the developing insight expressed by the social worker in her reflective piece"* and concluded that a further period of time would *"allow sufficient time for the social worker to provide further evidence of insight and remediation into her misconduct."*
45. However, there is no evidence before the panel that Ms Peplow has taken any further steps to develop her insight or remediate her misconduct. On the contrary, the correspondence set out above, indicates that Ms Peplow has disengaged from the regulatory process.
46. In those circumstances, the panel found that Ms Peplow's fitness to practise remains impaired because it cannot be confident that she will not repeat her misconduct and so put the public at risk and undermine public confidence in the social work profession.

Decision and reasons on sanction:

47. Having found Ms Peplow's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case.
48. The panel had regard to the submissions made and all the information before it and Social Work England's Sanctions Guidance. It accepted the advice of the legal adviser.
49. The panel is mindful that sanction is a matter for its own independent judgment, and that the purpose of a sanction is not to punish Ms Peplow but to protect the public.
50. It reminded itself that the protection of the public includes not only maintaining the health, safety and well-being of the public but also maintaining public confidence in the profession and promoting and maintaining proper professional standards of conduct for members of the profession.
51. Furthermore, a sanction must be proportionate, so that any order that it makes should be the least restrictive order that would suffice to protect the public and the public interest.
52. The panel first considered taking no action. The panel concluded that, in view of the nature of the concerns, which have not been fully remediated, it would be inappropriate to take no action because that would be insufficient to protect the public.
53. The panel then considered whether to issue a warning. The panel noted that this sanction would not restrict Ms Peplow's ability to practise and is therefore not appropriate as it would fail to adequately protect the public or meet the wider public interest concerns.
54. The panel next considered a conditions of practice order. It bore in mind that the misconduct found at the substantive hearing remains capable of remediation. Nevertheless,

the panel concluded that it could not draft workable conditions in circumstances where Ms Peplow had disengaged from the process and declared that she no longer wished to work as a social worker. Ms Peplow had not provided any reassurance to the panel that she would comply with conditions.

55. The panel then considered making a suspension order. It was satisfied that such an order would continue to protect members of the public from the risk of Ms Peplow repeating her misconduct. However, it was not satisfied that a further period of suspension would be sufficient to protect the wider public interest by upholding standards of conduct and maintaining public confidence, in the light of Ms Peplow's lack of engagement.
56. Ms Peplow has not attended any of the 3 substantive hearings. She has not taken the opportunity to provide the material suggested by the last reviewing panel which would demonstrate that there was no longer a risk of her repeating her misconduct. She has demonstrated in correspondence that she no longer wishes to take the steps necessary to remain registered as a social worker. No purpose could be served by extending the period of suspension with the associated need for a further review. Accordingly, the panel concluded that public confidence would be undermined if it continued to suspend and review the suspension of a social worker who did not wish to engage with her regulator.
57. The panel then considered whether it should impose a removal order. The panel had careful regard to paragraph 96 of the Sanctions Guidance which provides that *"A removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England."*
58. The panel is satisfied that no other outcome would be sufficient to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers. Ms Peplow has made it clear she does not intend to engage with the regulatory process and she has not provided the panel with any evidence of further insight or remediation. This led the panel to conclude, having considered and discounted the less restrictive sanctions, that a removal order was necessary to protect the public.
59. Accordingly, the panel directs that Ms Peplow's name be removed from the Register of Social Workers when the current suspension order expires.

Right of Appeal:

60. 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:
- a. 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,

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

61. 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.

62. 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.

63. 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:

64. 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.

65. 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.

That concludes this determination.