

Social worker: Edwin F Kelly
Registration number: SW28661
Fitness to practise: Final hearing

Dates of hearing: 01 March 2021

Hearing Venue: Remote Hearing

Hearing outcome: Removal order

Interim order: Interim suspension order (18 months)

Introduction and attendees

1. This is a hearing of the Fitness to Practise Committee held under Part 5 of The Social Workers Regulations 2018 ('the Regulations').
2. Mr Kelly did not attend and was not represented.
3. Social Work England was represented by Gemma Gillet of Capsticks LLP.

Adjudicators	Role
Name: Alexander Coleman	Chair
Name: Stella Elliott	Social Worker Adjudicator
Name: Susan Bradford	Lay Adjudicator

Name: Hannah McKendrick	Hearings Officer
Name: Danielle Wild	Hearing Support Officer
Name: Rachel Birks	Legal Adviser

Service of Notice:

4. Mr Kelly did not attend and was not represented. The panel of adjudicators ('the panel') was informed by Ms Gillet that Mr Kelly had not notified either Health and Care Professions Council ('HCPC') or Social Work England of his new address, despite having informed HCPC by email on 28 April 2019 that he no longer lived at his address on the register. Ms Gillet informed the panel that Social Work England believed that it is correct that Mr Kelly does not live at the address on the register, as communications sent to him at that address had been marked as "return to sender". She confirmed that Social Work England instructed an enquiry agent to try to locate a new address for Mr Kelly but they had not been able to locate him. Social Work England therefore used the email address that Mr Kelly had used when he had last communicated to Social Work England in 2019, to send the notice of this hearing to. Ms Gillet submitted that the notice of hearing had been duly served.
5. The panel accepted the advice of the legal adviser in relation to service of notice which included that:
 - Rule 14 of the Fitness to Practise Rules ('the Rules') provides that at least 28 days' notice must be given;
 - Para 10(4) of Schedule 2 to the Social Workers Regulations 2018 ('the Regulations') requires the notification of a hearing to include an invitation to

Mr Kelly to make written submissions and that Mr Kelly should be informed that they can attend, be represented, make oral submissions and call witnesses.

- Rule 44 of the Rules provides for a notice of hearing to be sent by special delivery, first class post and email.

6. Having had regard to the Rules and Regulations and all of the information before it in relation to the service of notice, along with Mr Kelly's duty to ensure Social Work England has up to date contact details, the panel was satisfied that the notice of hearing had been served on Mr Kelly.

Proceeding in the absence of Mr Kelly:

7. The panel heard the submissions of Ms Gillet on behalf of Social Work England. Ms Gillet submitted that notice of this hearing had been duly served and that no application for an adjournment had been made by Mr Kelly who has not engaged with the regulator since 2019. As such there was no guarantee that adjourning today's proceedings would secure his attendance. She therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
8. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162 etc*; and Rule 43 of the Rules.
9. The panel considered all of the information before it, together with the submissions made by Ms Gillet on behalf of Social Work England. The panel identified the following factors relevant to whether it should exercise its discretion to proceed with the hearing in the absence of Mr Kelly:
 - a. The panel noted that Mr Kelly had been sent notice of today's hearing and it was satisfied that he should be aware of today's hearing;
 - b. Mr Kelly has known that a fitness to practise investigation has been ongoing and has not taken any steps to engage with or contact HCPC or Social Work England since 2019;
 - c. There is no application for an adjournment and the panel had no reason to believe that an adjournment would result in Mr Kelly's attendance.
 - d. The public interest requires the fair, economical, expeditious and efficient disposal of the allegations.
 - e. These allegations go back to 2015 and it is important to conclude the case promptly before witnesses' memories further fade.
10. The panel concluded that Mr Kelly had chosen voluntarily to absent himself. Having weighed the interests of Mr Kelly with regard to the benefit to him of being in attendance at

the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Mr Kelly's absence.

Allegations

11. Whilst registered as a Social Worker:

1. *You did not maintain professional boundaries in that you sent Service User A a Facebook message on or around 29 September 2017 as set out in Schedule A:*
2. *During your employment with Hampshire County Council ('the Council'), you*
 - (a) *In relation to Child A:*
 - (i) *Did not share safe-guarding concerns with your manager in good time in order to initiate a s.47 enquiry upon learning that Child A had moved back in with her parents on 23 December 2015;*
 - (ii) *Did not include in your conduct a risk assessment dated 21 January 2016 that of the parents of Child A ~~when you learned that they~~ were not complying with their weekly drug test as required in the Placement with Parent ('PWP') agreement;*
 - (b) *In relation to Child A and/or Child E, following the Child Looked After ('CLA') review of 25 November 2015;*
 - (i) *Did not request regular, weekly ~~any~~ updates from the Orion Centre regarding the outcome of the drug tests and/or the parents' participation;*
 - (ii) *Did not carry out checks and/or assessments in relation to the other children of the father of Child A and Child E;*
 - (iii) *Did not ensure that there was a plan for contact between Child E and Child A all year round as required;*
 - (iv) *Did not ensure that there was a contract of expectations regarding the parents of Child A and Child E not driving under the influence, as required in the Child Protection Plan.*
 - (c) *In relation to Child B, prior to a Review Child Protection Conference ('RCPC') review on 26 November 2015;*
 - (i) *Did not formulate a new plan and/or contract of expectations regarding the contact Child B's mother could have with him;*

- (ii) *Did not carry out checks and/or an assessment of Child B's maternal great grandmother, Person B;*
- ~~(iii) *Did not conduct a risk assessment of Child B's contact with his father through 'FaceTime';*~~
- ~~(iv) *Did not provide carers with a medical card and/or delegated authority paperwork for Child E;*~~
- ~~(v) *Did not undertake a risk assessment of Child B's mother in relation to her ability to look after Child B.*~~
- (d) *In relation to Child C, following a review which took place on 13 August 2015, you did not complete the following tasks on the required date and before the next review on 10 November 2015:*
 - (i) *Updating the care plan to include plans for Child C to have contact with her birth family;*
 - (ii) *Completing a health assessment and sending it to the Independent Reviewing Officer (IRO);*
 - ~~(iii) *Creating a working agreement between Child C's maternal grandmother, Children's Services, and foster carers in relation to contact;*~~
 - (iii) *Clarifying the boundaries around telephone contact which Child C's mother and members of the wider family needed to adhere to with the mother and maternal grandmother;*
 - ~~(v) *Ensuring that the foster carer monitored telephone contact and intervened/raised concerns as necessary.*~~
- (e) *In relation to Child D, produced an undated risk assessment on or around 25 February 2016 which did not;*
 - (i) *Explore what contact arrangement should stay in place;*
 - (ii) *Risk assess the father's housemates, Person C and Person D.*

3. *Your actions described at particular 1 were sexually motivated.*
4. *Your actions described at particulars 1 to 3 constitute misconduct and/or lack of competence.*
5. *By reason of your misconduct and/or lack of competence your fitness to practise is impaired.*

Preliminary matters

12. Ms Gillet made an application to amend the allegation as detailed above.
13. Ms Gillet submitted that Mr Kelly had been given notice of all of the proposed amendments within the Statement of Case that was sent to him, with the exception of:
 - a. Allegation 1 - the proposed amendment to change '*on 29 September 2017*' to '*on or round 29 September 2017*';
 - b. Allegation 2(b) – the proposed amendment to change '*Child A and Child E*' to '*Child A and/or Child E*'.
14. Ms Gillet submitted that the amendments did not change the seriousness or the nature of the allegation; rather they were to provide clarity and to reflect the evidence. Some of the proposed changes were to delete allegations that were not supported by the evidence, which would benefit Mr Kelly. She further submitted that Mr Kelly was on notice of the majority of the proposed amendments.
15. The panel accepted the advice of the legal adviser that it could allow such amendments if they did not change the seriousness or nature of the allegation, thereby causing unfairness to Mr Kelly.
16. The panel went through each proposed amendment in turn and reached the following decisions:
 - a. Amendment to Allegation 1. The panel concluded that the gravamen of the allegation is the sending of a message to a service user which did not respect professional boundaries, and not the exact date on which it occurred. Whilst it noted that Mr Kelly was not on notice of this proposed amendment it neither changed the nature nor seriousness of the allegation and therefore no unfairness resulted from the amendment. The panel determined to allow the amendment.
 - b. Amendment to Allegation 2(a)(i). The panel concluded that that the proposed amendment better reflected the evidence and did not change the gravamen of the allegation which was about ensuring that a Section 47 was initiated. The proposed amendment neither changed the nature nor seriousness of the allegation and therefore no unfairness resulted from the amendment. The panel determined to allow the amendment.
 - c. Amendment to Allegation 2(a)(ii). The panel concluded that that the proposed amendment better reflected the evidence and did not change the gravamen of the allegation which was about acting upon the failure of Child A's parents to attend for weekly drugs testing. The proposed amendment neither changed the nature nor seriousness of the allegation and therefore

no unfairness resulted from the amendment. The panel determined to allow the amendment.

- d. Amendment to the stem of Allegation 2(b). The panel concluded that the proposed amendment made no difference to the gravamen of the allegation but provided clarity. Whilst it noted that Mr Kelly was not on notice of this proposed amendment, the proposed amendment neither changed the nature nor seriousness of the allegation and therefore no unfairness resulted from the amendment. The panel determined to allow the amendment.
- e. Amendment to Allegation 2(b)(i). The panel concluded that the proposed amendment changed the frequency of the updates that were expected. There is no change to the gravamen of the allegation which is about meeting the expectations of the Looked After Review and actions in relation to drug testing. The proposed amendment neither changed the nature nor seriousness of the allegation and therefore no unfairness resulted from the amendment. The panel determined to allow the amendment.
- f. Amendment to Allegation 2(c)(i). The panel concluded that the proposed amendment made no difference to the gravamen of the allegation but provided clarity. The proposed amendment neither changed the nature nor seriousness of the allegation and therefore no unfairness resulted from the amendment. The panel determined to allow the amendment.
- g. Amendment to Allegation 2(c)(iii) and (iv). The panel considered that deleting paragraphs from the allegation did not cause any unfairness to Mr Kelly. On the contrary, it was fairer to Mr Kelly for paragraphs to be deleted where there was no evidence in support.
- h. Amendment to Allegation 2(d) (iii) and (v). The panel considered that deleting paragraphs from the allegation did not cause any unfairness to Mr Kelly. On the contrary, it was fairer to Mr Kelly for paragraphs to be deleted where there was no evidence in support.

17. The application to amend the Allegations was allowed in its entirety.

Summary of Evidence

18. Social Work England presented the following evidence:

- a. Fiona Armfield (Local Authority Designated Officer “LADO” for Hampshire County Council). Her written statement stood as her evidence in chief and she did not give oral evidence because:
 - i. Mr Kelly had not indicated that he required her to give oral evidence; and

- ii. the panel did not have any additional questions for her.
 - b. Sophie Doran (at the relevant time was the Head of Safeguarding for the North East Cluster, within Achieving for Children 'AfC' for Kingston and Richmond). Her written statement stood as her evidence in chief and she did not attend to give oral evidence because:
 - i. Mr Kelly had not indicated that he required her to give oral evidence; and
 - ii. the panel did not have any additional questions for her.
 - c. Ms JB (at the relevant time was the covering Team Manager for a Children in Need Team in East Hampshire, part of Hampshire County Council). The panel considered her written statement and also received oral evidence from her, which enabled it to ask questions of her.
19. Mr Kelly was not present and was not represented. Social Work England therefore presented a bundle of evidence on his behalf which included:
- a. Email from Mr Kelly dated 26 January 2018 to HCPC's initial contact regarding a fitness to practise concern;
 - b. Summary of oral submissions made by him at Interim Order Application hearing on 14 March 2018;
 - c. Email from Mr Kelly with letter dated 21 July 2018, requesting early Interim Order Review – attaching a reference from Ms JB;
 - d. Email from Mr Kelly to HCPC dated 5 April 2019, requesting his name be removed from register;
 - e. Email from Mr Kelly to HCPC dated 28 April 2019 requesting to be struck off.
20. Between December 2014 and March 2016 Mr Kelly was contracted via an agency to work in a Children in Need Team in East Hampshire, which is part of Hampshire County Council. Between May 2016 and March 2018 he was contracted into the Child Protection Team for the London Borough of Richmond.
21. On 25 October 2017, the HCPC received a referral regarding Mr Kelly. The referral was submitted by Service User A with assistance from Hampshire County Council. Service User A reported that Mr Kelly had contacted her via Facebook. Mr Kelly had previously been Service User A's allocated social worker when he worked for East Hampshire. It was alleged that Mr Kelly had sent Service User A a message that was of a sexual nature. Mr Kelly stated that he thought Service User A was beautiful and that he wanted to kiss her. That referral forms the basis of Allegations 1 and 3.

22. It was also alleged by Hampshire County Council that there were other concerns in Mr Kelly's practice in relation to multiple service users. The areas of concern included management of risk and not carrying out assessments. Those concerns form the basis of Allegation 2.

Finding and reasons on facts

23. Before considering its findings on the facts, the panel reminded itself that the burden of proving the facts is with Social Work England. It accepted the advice of the legal adviser that whilst Social Work England needs to prove the facts, the panel can take into account admissions made by Mr Kelly, particularly where they corroborate other evidence put forward. In doing so the panel accepted that it needs to assess the accuracy, reliability and credibility of the information provided to it in which those admissions are made.
24. The panel reminded itself that it should apply the civil standard of proof, sometimes referred to as being satisfied on the balance of probabilities.
25. The panel considered the entirety of the evidence received, both written and oral and considered the reliability, accuracy and credibility of the evidence and decided what weight to attach each piece of evidence.
26. Social Work England has produced evidence from Ms JB and some of her evidence is her reporting her understanding of concerns about Mr Kelly's work that she had seen from supervision records. The panel accepted the advice of the legal adviser that:
- a. This is hearsay evidence which means it is put forward to prove the truth of what is asserted, but it is not provided by the person who made the supervision records and who had direct knowledge of the concerns;
 - b. The panel are able to admit such evidence because rule 32(b)(vii) provides that the panel may admit evidence where they consider it fair to do so, whether or not such evidence would be admissible in a court of law;
 - c. It is a matter for the panel what weight it decides to attach to that evidence. In considering what weight to attach the panel will need to consider the accuracy, reliability and credibility of the evidence that has been heard (as it will have to with all of the evidence) and in doing so should take into account:
 - i. The source of the information;
 - ii. The way in which the information has been obtained, clarified and recorded;
 - iii. The extent to which it is consistent with other evidence or admissions.

27. With regard to the allegation that actions were sexually motivated the panel accepted the advice of the legal adviser that in *Basson v General Medical Council* [2018] EWHC 505 (Admin), Mostyn J stated

- a. *"A sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship".*
- b. Sexual motivation is also a state of mind and *"...the state of a man's mind is to be proved in the usual way by the necessary body of evidence on the balance of probabilities ... However, the state of a person's mind is not something that can be proved by direct observation. It can only be proved by inference or deduction from the surrounding evidence."*

28. The panel carefully considered the evidence it had received:

- a. The panel considered Ms JB to be a clear, reliable and credible witness. She did not seek to embellish her evidence. The panel noted her explanation for why she had provided Mr Kelly with a positive reference given the concerns that she was outlining in her evidence. This explanation was that she had only been the supervisor for Mr Kelly for two months to cover absence, and that she had not gone through Mr Kelly's full supervision file until the HCPC had made contact with her asking whether there had been any concerns about Mr Kelly. The panel accepted this explanation and did not consider that it diminished her reliability and credibility.
- b. In relation to the evidence of Ms JB that was hearsay evidence, the panel noted that she had obtained it from contemporaneous minutes of meetings, emails and Service User documentation. There was no reason for the panel to doubt either its authenticity, or the concerns expressed by other professionals within that documentation.
- c. The panel considered Ms Doran's evidence to be clearly set out and noted it was written in her professional capacity as Head of Safeguarding. It considered her evidence to be both reliable and credible.
- d. The panel considered Ms Armfield's evidence to be clear and noted it was written in her professional capacity as LADO. It considered her evidence to be both credible and reliable.
- e. The panel concluded that it could give considerable weight to the evidence of all three of the witnesses.

29. The panel made the following findings in relation to the facts for the reasons set out:

- 1. *You did not maintain professional boundaries in that you sent Service User A a Facebook message on or around 29 September 2017 as set out in Schedule A:***

Found proved

30. Ms Armfield's evidence was that Hampshire Council became aware of this message after being contacted by Service User A. Ms Armfield contacted Service User A on 2 October 2017 and she provided her with a copy of the message which Ms Armfield has exhibited in which Mr Kelly stated:

"Hi [Service User A]. Both you and your daughter have found such a soft place in my heart. I always wanted to say this, but couldn't because of my position. I have missed seeing you since I left Hampshire; hope you're doing well. You have always been so beautiful; you truly are the most beautiful person and I always longed to kiss you whenever I saw you. I miss seeing both of you and your loving daughter so much; I've always loved seeing you..."

31. The panel noted that the name *Edwin Kelly* appears at the top of the message.
32. The panel noted, from an email exhibited by Ms Armfield, that Service User A had informed HCPC that the Facebook message was sent on 29 September 2017.
33. Mr Kelly admitted sending the message, when questioned during his meeting with Ms Armfield on 21 March 2018. The panel considered the minutes of that meeting in which the admission was made, finding them to be a contemporaneous, formal and reliable record that such an admission was made. The panel noted his account that the incident had occurred one Friday night in September 2017 when he had been on Facebook and had come across a Service User he had worked with in Hampshire. The panel noted that this was consistent with Mr Kelly's admission during his oral submissions at the HCPC's Interim Order Application Hearing on 14 March 2018, when he stated that he took full responsibility for the sending of the inappropriate remarks.
34. The panel noted that it is for Social Work England to prove the allegation, but that the admissions by Mr Kelly on two occasions are consistent with the evidence adduced by Social Work England. It therefore placed considerable weight upon the admissions.
35. HCPC's Standards of Conduct Performance and Ethics, Standard 1.7 states:

'Maintain appropriate boundaries

1.7 You must keep your relationships with service users and carers professional.'

36. Sending such a message on social media to a vulnerable service user clearly crosses appropriate professional boundaries. The panel noted Ms Armfield's evidence that Service User A expressed to her how:

'...her trust in professionals had been ruined. She recalled Mr Kelly's involvement, all the intimate details she had shared about her life, her thoughts and feelings. He had been in her home and she had trusted him, to now know that all the time Mr Kelly had these feelings was difficult for her to come to terms with.'

37. The panel found the allegation proved.

2. During your employment with Hampshire County Council ('the Council'), you

(a) In relation to Child A:

- (i) Did not share safe-guarding concerns with your manager in good time in order to initiate a s.47 enquiry upon learning that Child A had moved back in with her parents on 23 December 2015;**

Found proved

38. The panel received evidence from Ms JB that Child A's parents were habitual substance users. Child A's Child Protection Plan had ceased when she had moved in with her grandparents at the age of 13. Ms JB gave evidence that during her first supervision with Mr Kelly on 14 January 2016, the case of Child A (and her sibling Child E) was discussed. The panel has seen the notes of the supervision confirming this. During the course of the supervision Mr Kelly had disclosed that on 23 December 2015 he had received information from the grandmother that Child A had gone back to live with her parents.

39. The panel accepted the evidence of Ms JB that as the allocated social worker for Child A, Mr Kelly should have shared this information with his team manager to initiate a Section 47 investigation. The panel accepted that this information was not shared by Mr Kelly between 23 December 2015 and 14 January 2016, which meant that a manager was not aware that Child A had moved home and that a Section 47 needed initiating. The panel accepted Ms JB's evidence that as a result Child A had been living in the home environment for three weeks without sufficient safeguarding measures being put in place.

40. The panel found this allegation proved.

- (ii) Did not include in your risk assessment dated 21 January 2016 that the parents of Child A were not complying with their weekly drug test as required in the Placement with Parent ('PWP') agreement;**

Found not proved

41. The panel noted Ms JB's evidence in which she confirmed that the panel does not have a complete copy of the relevant document dated 21 January 2016. The document before the panel is four pages in length and Ms JB's evidence was that there were more pages to that document. In the absence of the complete document it is not possible for the panel to be able to conclude, on the balance of probabilities, that the risk assessment did not reference that the parents of Child A were not complying with their weekly drug test.

42. The panel found this allegation not proved.

- (b) In relation to Child A and/or Child E, following the Child Looked After ('CLA') review of 25 November 2015;**

- (i) Did not request regular, weekly updates from the Orion Centre regarding the outcome of the drug tests and/or the parents' participation;**

Found proved

43. The panel noted the evidence adduced by Ms JB in the form of minutes of a 'Review of arrangements for a child looked after by Hampshire County Council' which took place on 25 November 2015 in relation to Child A. It accepted that this was reliable evidence of the decisions made at that review meeting which included the following actions for Mr Kelly to be completed by 27 November 2015:

'Parents to comply with weekly drug tests and CSD to seek weekly updates from the Orion Centre regarding parental compliance and results of drug tests – action SW/parents – weekly drug tests to be arranged by 27.11.15 and updates to be sought from Orion Centre every week.'

44. The panel noted the email from Lindi Clayton, Child Protection Chair and Independent Reviewing Officer, to Mr Kelly (and copying in the Cafcass officer) dated 9 December 2015. This followed a review the previous day, in which concerns were expressed that:

'Parents continue to only have fortnightly drug tests despite the fact that it was decided in the CLA review on 25.11.15 that weekly tests are required to give a clearer picture of parents' current drug use. Furthermore Edwin is not receiving any updates from the Orion Centre re the outcome of drug tests or even whether parents are turning up, and the dept therefore has no evidence of parents' current drug use or compliance. This raises significant safety concerns for Lucas'.

45. The panel found this allegation proved.

- (ii) Did not carry out checks and/or assessments in relation to the other children of the father of Child A and Child E;**

Found proved

46. The panel noted the evidence of Ms JB in that she asserted that basic social work practice should include a genogram in any initial assessment of a family.

47. The panel noted the email from Lindi Clayton dated 9 December 2015, in which concerns were expressed that:

'It appears that no checks have been carried out in respect of [Father's] other children - he has had a number of other children, none of whom are named as 'significant-others' on the SW report and there is no info in the SW report on whether there have been CP concerns re these children historically. It was not

apparent at the ICPC that [Father] has other children and it now appears that this question has not been asked/investigated during SW assessments?'

48. The panel found this allegation proved.

(iii) *Did not ensure that there was a plan for contact between Child E and Child A all year round as required;*

Found proved

49. The panel noted the minutes of the 'Review of arrangements for a child looked after...' which took place on 25 November 2015 in relation to child A included the following action for Mr Kelly to be completed by 27 November 2015:

'Plan for contact with [Child E] (frequency, duration, venue and who will support/supervise) is urgently required – action SW – by 27.11.15.'

50. The panel noted the email from Lindi Clayton dated 9 December 2015, in which concerns were expressed that:

'A plan for contact between [Child A] and [Child E] all year round (not just during school term) remains outstanding;'

51. The panel found this allegation proved.

(iv) *Did not ensure that there was a contract of expectations regarding the parents of Child A and Child E not driving under the influence, as required in the Child Protection Plan.*

Found proved

52. The panel noted the evidence of Ms JB when she confirmed the identified risk within the Child Protection Plan that the parents of Child A and Child E were driving whilst on methadone. It was agreed that Mr Kelly would contact the DVLA to ensure that they were aware of the parents being on methadone scripts and seek DVLA advice about driving. The matter of driving under the influence was raised at the Child Protection Conference of 7 October 2015, and a contract of expectations regarding this was noted to still be required in the Child Protection Plan of 8 December 2015.

53. The panel noted the email from Lindi Clayton, Child Protection Chair and Independent Reviewing Officer, to Mr Kelly (and copying in the Cafcass officer) dated 9 December 2015. This followed a review the previous day, in which concerns were expressed that:

'There does not seem to be a current contract of expectations with parents re not driving under the influence, despite this being a task on the CPP following the ICPC';

54. The panel found this allegation proved.

(c) In relation to Child B, prior to a Review Child Protection Conference ('RCPC') review on 26 November 2015;

(iii) Did not formulate a new plan and/or contract of expectations regarding the contact Child B's mother could have with him;

Found proved

55. The panel noted the evidence of Ms JB. She confirmed that Mr Kelly had been the allocated social worker for Child B since March 2015, and that he should have been aware of all the tasks that he needed to complete and would have been expected to abide by timescales set. The panel has seen the minutes of the meeting when the Child Protection Plan was reviewed on 10 June 2015. The minutes show that Mr Kelly was in attendance and that discussions were had including:

- a. *'Contact arrangements are in place but these are to be reviewed'; and*
- b. *'Ms Clayton said a new agreement for contact should be agreed... Ms Clayton said the contact issue will not be resolved today; Mr Kelly needs to set up a separate meeting to sort this out.'*

56. The panel noted the evidence of Ms JB and the email she produced from Lindi Clayton, sent to Mr Kelly's manager and the Cafcass officer on 2 November 2015. This was the day after a Review Child Protection Conference and Child Looked After Review that she had chaired the day before. In that email she noted:

'The CLA review revealed a number of oversight's on Edwin's part, including:

There being no clear plan or contract of expectations in place with regard to mother's contact with [Child B] - this is very concerning given that mother has unsupervised contact with [Child B] for several hours every week and there are known concerns about her friendships and behaviours towards other young people which could be witnessed by [Child B] in the absence of clear stipulations re contact.

57. The panel found this allegation proved.

(iv) Did not carry out checks and/or an assessment of Child B's maternal great grandmother, Person B;

Found proved

58. In Lindi Clayton's email dated 2 November 2015 she noted:

'It came out during the review that [Child B] spends many hours every Wednesday with his maternal great grandmother..., yet there has been no

mention of this relative or this arrangement during CP conferences, on the paperwork, or in Court. Edwin confirmed that he was aware of this arrangement, but that he has not carried out any checks or any assessment in respect of this person.'

59. The panel found this allegation proved.

(d) *In relation to Child C, following a review which took place on 13 August 2015, you did not complete the following tasks on the required date and before the next review on 10 November 2015:*

(iv) *Updating the care plan to include plans for Child C to have contact with her birth family;*

Found proved

60. The panel noted the minutes of the Review of Arrangements for a Child Looked After by Hampshire County Council dated 10 November 2015 in relation to Child C. It noted that actions from the last review on 13 August 2015 had not been fully implemented, and in particular had regard to the entry:

'Care Plan to be amended to include accurate, detailed plans in relation to [Child C's] contact with her birth family. Amended care plan to be sent to mother, school, [Child C], foster carers, Family Placement social worker and IRO - social worker – by 21.8.15. Update -Task not completed.'

61. The panel found this allegation proved.

(v) *Completing a health assessment and sending it to the Independent Reviewing Officer (IRO);*

Found proved

62. The panel also noted the entry:

'Health Assessment (including whether or not [Child C] has received all age-appropriate immunisations) to be completed and sent to IRO - social worker and foster carer - by 11.9.15. Update -Task not completed.'

63. The panel found this allegation proved.

(vi) *Clarifying the boundaries around telephone contact which Child C's mother and members of the wider family needed to adhere to with the mother and maternal grandmother;*

Found proved

64. The panel also noted the entry:

'There need to be clear boundaries around telephone contact (including mobile phone contact) that mother and members of the wider family need to adhere to – social worker to clarify what these boundaries are with mother and maternal grandmother (by 14.8.15) and foster carer to monitor telephone contact and intervene/raise concerns as needed - social worker/foster carer - ongoing from 14.8.15. Update - Task not completed.'

65. The panel found this allegation proved.

(e) In relation to Child D, produced an undated risk assessment on or around 25 February 2016 which did not;

(i) Explore what contact arrangement should stay in place;

Found not proved

66. The evidence given by Ms JB confirmed that a Child Protection Plan was put in place for Child D on 9 June 2015. On 1 February 2016 there was a Core Group meeting between the parents, Mr Kelly and other professionals. Mr Kelly was given the task to complete an updated risk assessment.

67. Ms JB stated that she received an email from the IRO for this case on 26 February 2016 raising concerns about the risk assessment as it had failed to address key issues and areas of risk. The panel has seen the email which notes:

' CP plan states that all contact between father and child should be supervised by Uncle and Aunt. This is not happening and father has been having unsupervised contact with child 3 days a week (9am – 5pm) since January. This seems to have happened since father took child for 4 days without mother's consent. Mother does not know where father takes child during contact. It is not clear who agreed the change to contact arrangements and the risk assessment completed by SW fails to address a number of areas for father. Risk assessment is not dated and there is no mention of what contact arrangements should stay place! Concern that Uncle and Aunt were aware of father having child for 4 days and Uncle appears to have colluded with father which raises concern for his ability to protect and to recognise the risk to child.'

68. Notwithstanding the contents of that email, the panel has seen the undated risk assessment referred to and it does state:

'I am recommending that the current contact arrangements should stay in place as it is difficult to establish if either parent is honest with professionals about their relationship or the contact arrangements in place.' Mr Kelly did therefore, as a matter of fact, explore what contact arrangements should stay in place.'

69. The panel found this allegation not proved.

(ii) Risk assess the father's housemates, Person C and Person D.

Found proved

70. The panel further notes that the email from the IRO states:

'Working agreement has been breached by parents on more than one occasion (father not to attend the home address), now on 3rd working agreement. Concern for father's house mates [Person C] and [Person D] who do not appear to have been assessed fully and child goes to this address. Following conference Alison (covering SW) spoke to police who shared significant concerns for [Person C] and [Person D] – [Person C] has significant history of police involvement including intel for drug use and sale, burglary and 2 warning signs for being a member of organised crime. (SW had done DP5 which does not show extent of concerns !!!).'

71. The panel has seen that the undated risk assessment does not risk assess Person C and Person D. Even if Mr Kelly had completed a DP5 and discounted Person C and Person D as posing any risk, that assessment of risk should have been recorded.

72. The panel found this allegation proved.

3. Your actions described at particular 1 were sexually motivated.

Found proved

73. The panel noted the contents of the Facebook message and in particular the references to Mr Kelly finding Service User A to be beautiful. It noted that Mr Kelly had said "*I always longed to kiss you whenever I saw you*". It considered whether there was any possible explanation for such a message to have been sent other than in pursuit of a future sexual relationship and concluded that there was not. It concluded that Mr Kelly had indeed sent the Facebook message in pursuit of a future sexual relationship and his actions were sexually motivated.

74. The panel found this allegation proved.

Finding and reasons on grounds

Misconduct

75. The panel reminded itself that there is no burden or standard of proof at this stage of the hearing. The panel is to apply its own judgement in relation to whether the facts found proved amount to misconduct and/or lack of competence.

76. Ms Gillet reminded the panel that the allegations had been drafted in such a way that misconduct and/or lack of competence could be found in relation to any of the allegations. She did not seek to persuade the panel that Allegations 1 and 3 amounted to lack of

competence, rather than that they were misconduct because of the breach of the core principles of practice.

77. Mr Gillet submitted that Allegation 2 could amount to lack of competence because of the wide ranging concerns relating to Mr Kelly's ability to carry out core parts of his role, thereby breaching 6.1, 7.1 and 10.1 of the core principles. She referred to the lack of evidence to show remorse or remediation.

78. The panel first considered whether the Allegations found proved amounted to misconduct. The panel accepted the advice of the legal adviser that misconduct was stated in case law to be:

- a. conduct that has 'fallen short, by omission or commission, of the standards of conduct expected among dentists, and that such falling short as is established should be serious.' (*Doughty v General Dental Council [1988] AC 164*);
- b. 'a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.' (*Roylance v General Medical Council (No 2) [2000] 1 AC 311*);
- c. 'conduct which would be regarded as deplorable by fellow practitioners.' *Nandi v General Medical Council [2004] EWHC 2317*.

79. In relation to Allegation 1 and 3, the panel found Mr Kelly to be in breach of the following paragraphs of HCPC's Standards of Conduct, Ethics and Performance:

a. **Maintain appropriate boundaries**

'1.7 You must keep your relationships with service users and carers professional';

b. **Social media and networking websites**

'2.7 You must use all forms of communication appropriately and responsibly, including social media and networking websites.'

80. In relation to Allegation 2, the panel found Mr Kelly to be in breach of the following paragraphs of HCPC's Standards of Conduct, Ethics and Performance:

a. **Identify and minimise risk**

'6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible'.

6.2 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.'

b. Report concerns

'7.1 You must report any concerns about the safety or well-being of service users promptly and appropriately'.

81. The panel concluded that members of the profession would consider Mr Kelly's actions to be deplorable and the public would be concerned because :

a. In relation to Allegation 1:

- i. the sending or a sexually motivated message to Service User A on Facebook involved a serious breach of trust. It harmed her, and her confidence in the profession, which were or should have been foreseeable by Mr Kelly;
- ii. Mr Kelly's actions could damage the wider public confidence in the profession, in which social workers have access to vulnerable service users, their lives and homes;
- iii. Mr Kelly's practice has fallen far below the standards of conduct expected of a social worker;

b. In relation to Allegations 2 (a) (i):

- i. Mr Kelly delayed the initiation of a s47 Investigation for three weeks over the Christmas and New Year period when risks to children are heightened;
- ii. Mr Kelly placed Child A at risk of serious harm which was avoidable;
- iii. These omissions can damage the wider public confidence in the profession;
- iv. Mr Kelly's practice has fallen far below the standards of conduct expected of a social worker;

c. In relation to Allegation 2 (b) (i)-(iv):

- i. There are four instances of poor practice by Mr Kelly that could have seriously impacted Child A and/or child E's health and safety;
 - ii. These acts or omissions can damage the wider public confidence in the profession;
 - iii. Mr Kelly's practice has fallen far below the standards of conduct expected of a social worker;
- d. In relation to Allegation 2(e):
 - i. The impact on the safety of Child E because of Mr Kelly's inactions could have been extreme;
 - ii. These omissions can damage the wider public confidence in the profession;
 - iii. Mr Kelly's practice has fallen far below the standards of conduct expected of a social worker.

82. The panel therefore concluded that Allegations:

- a. 1
- b. 2 (a) (i)
- c. 2 (b) (i) – (iv)
- d. 3

did amount to misconduct which was serious.

83. The panel did not consider that Allegations 2(c) (iii)-(iv) and 2(d) (iv)-(vi) could amount to misconduct in themselves. They were examples of poor practice but other professionals would not regard them as deplorable in isolation. However, when considered alongside Allegations 2(a) (i), 2 (b) (i) – (iv) and 2(e) (ii) they would be viewed as deplorable by fellow practitioners and the public, because they show Mr Kelly was repeatedly not acting in the best interests of the children within his care. The panel found that Allegations 2(c) (iii)-(iv) and 2 (d) (iv)-(vi) did therefore amount to misconduct which was serious when considered in the context of the whole case.

Lack of competence

84. The panel considered whether the allegations found proved could also amount to a lack of competence. It concluded that Allegations 1 and 3 did not amount to a lack of competence.

85. In relation to the allegations found proved within Allegation 2 (2(a) (i), 2(b)(i)-(iv), 2(c)(iii)-(iv), 2(d)(iv)-(vi) and 2(e)(ii)) the panel observed that:

- a. The concerns related to five different children, and four different families;
- b. The omissions were wide ranging;
- c. The allegations spanned the period August 2015 – February 2016;
- d. Ms Doran noted in her statement that Mr Kelly needed retraining;
- e. The allegations related to basic knowledge and skills required of a social worker, surrounding identifying and acting on significant risks, designed to protect children from the risk of harm.

86. The panel concluded that the concerns related to a fair sample of Mr Kelly's work and demonstrated that the standard of his work was unacceptably low.

87. The panel therefore concluded that Mr Kelly's conduct did amount to a lack of competence in relation to Allegations 2(a) (i), 2(b)(i)-(iv), 2(c)(iii)-(iv), 2(d)(iv)-(vi) and 2(e)(ii).

Finding and reasons on current impairment

88. Ms Gillet submitted that in relation to Allegations 1 and 3 Mr Kelly's actions were fundamentally incompatible with continued registration and that any level of remediation would be insufficient to uphold the reputation of the profession.

89. In relation to Allegations 2 (2(a) (i), 2(b)(i)-(iv), 2(c)(iii)-(iv), 2(d)(iv)-(vi) and 2(e)(ii) Ms Gillet submitted that there is no evidence of insight, remorse or remediation. Mr Kelly failed in his duties to assess and act on risk despite prompting from other professionals.

90. Ms Gillet submitted that in the absence of any remediation the risk of repetition of all of the behaviour is high. Therefore, a finding of impairment is needed in order to uphold the over-arching objective of protecting the public which involves the pursuit of the following objectives:

- a. to protect, promote and maintain the health, safety and well-being of the public;
- b. to promote and maintain public confidence in the profession; and
- c. to promote and maintain proper professional standards of conduct for members of the profession.

91. The panel accepted the advice of the legal adviser that there is no burden or standard of proof when it comes to the issue of impairment. It is a matter for the panel. The legal adviser also advised that in relation to impairment, it is current impairment of fitness to

practise that is important and that the case of *CHRE v NMC & Paula Grant [2011] EWHC 927 (Admin)*, provides a helpful approach to the determination of impairment because it involves a consideration of both the past and the future:

‘Do our findings of fact in respect of the doctor’s misconduct...show that his/her fitness to practise is impaired in the sense that s/he:

a. 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

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. 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...

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.’

92. The legal adviser also advised the panel to have regard to the case of *Cohen v GMC [2008] EWHC 581 (Admin)* which states:

‘It must be highly relevant in determining if a doctor’s fitness to practise is impaired that; first his or her conduct which led to the charge is easily remedied, second that it has been remedied and third that it is highly unlikely to be repeated.’

93. The panel considered:

- a. whether Mr Kelly's conduct was easily remediable;
- b. whether it had been remedied; and
- c. whether there was a risk of repetition.

94. In relation to Allegations 1 and 3 the panel noted Mr Kelly's explanation for his conduct which he stated occurred when his marriage was breaking down and when he had been drinking. The panel noted that he had expressed remorse. It concluded that there was no evidence of any deep seated attitudinal issue, and the conduct was therefore remediable. However, the panel has no evidence of any reflection by Mr Kelly on the effect of his conduct on Service User A, or the wider public and the profession, and it could not therefore be satisfied that Mr Kelly had developed any real insight. It noted that there was nothing from Mr Kelly to show what he had done to ensure that he would not repeat his conduct and there therefore remained a risk of repetition.

95. In relation to Allegations 2 (2(a) (i), 2(b)(i)-(iv), 2(c)(iii)-(iv), 2(d)(iv)-(vi) and 2(e)(ii) , the panel had received no response from Mr Kelly to them. The panel considered the issues identified in the allegations to be remediable, but there was no information before the panel to enable it to conclude that Mr Kelly had any insight or had remediated in any way. It therefore concluded that the risk of repetition was very high.

96. The panel had regard to the approach in *Grant v GMC* and concluded that:

- a. Mr Kelly has in the past acted and is liable in the future to act so as to put a service user and carer at unwarranted risk of harm; and
- b. Mr Kelly has in the past brought and is liable in the future to bring the social work profession into disrepute; and
- c. Mr Kelly has in the past breached and is liable in the future to breach the fundamental tenets of the social work profession, namely:
 - i. To be trustworthy; and
 - ii. To keep vulnerable children safe.

97. The panel therefore concluded that Mr Kelly's fitness to practise is impaired by reason of his misconduct and lack of competence, and that such a finding is necessary in order to uphold the overarching objective of protecting the public and in the pursuit of the following objectives:

- a. to protect, promote and maintain the health, safety and well-being of the public;
- b. to promote and maintain public confidence in the profession; and
- c. to promote and maintain proper professional standards of conduct for members of the profession.

Decision on sanction/warning/advice

98. In accordance with Regulation 13(1) a final order may:

- a. require the removal of Mr Kelly's entry from the register (a 'removal order');
- b. suspend Mr Kelly from practising for such period as is specified in the order, not exceeding three years (a 'suspension order');
- c. impose a restriction or condition with which Mr Kelly must comply for such period as is specified in the order, not exceeding three years (a 'conditions of practice order');
- d. give a warning to Mr Kelly regarding his future conduct or performance (a 'warning order').

99. Ms Gillet submitted that this was not a case where no further action or a warning would be appropriate because of:

- a. the seriousness of the panel's findings which include sexually motivated behaviour towards a vulnerable serious user;
- b. the abuse of trust involved in sending the sexually motivated Facebook message;
- c. the broad range of issues in this case.

100. Ms Gillet submitted that conditions would not be workable because Mr Kelly is not engaging with Social Work England and has indicated that he would like his name to be removed from the social work register.

101. Ms Gillet drew the panel's attention to paragraph 105 of the Sanctions Guidance which states:

'Abuse of professional position to pursue a sexual or improper emotional or social relationship with a service user or a member of their family or a work colleague is a serious abuse of trust. Many people will be accessing social care for reasons that increase their vulnerability and that of their family. Pursuit of a sexual or improper emotional or social relationship with a vulnerable person is likely to require a more serious sanction against a social worker.'

102. Ms Gillet submitted that removal from the register is a necessary and proportionate sanction to impose in this case.

103. The panel accepted the advice of the legal adviser, in particular that it should:

- a. Consider whether there are any particular mitigating or aggravating features;
- b. Have regard to the sanctions guidance, and work through the sanctions starting first of all with no order, and then moving on to consider the least restrictive first;
- c. Have regard to the over-arching objective of protecting the public which involves the pursuit of the following objectives:
 - i. to protect, promote and maintain the health, safety and well-being of the public;
 - ii. to promote and maintain public confidence in the profession; and
 - iii. to promote and maintain proper professional standards of conduct for members of the profession;
- d. Ensure that any sanction is proportionate;
- e. Weigh the interests of the public against the interests of Mr Kelly;
- f. Remember that sanctions are not intended to be punitive but they may have a punitive effect.

104. The panel could only identify one mitigating factor in this case which was that Mr Kelly has shown some, albeit limited, insight in relation to Allegation 1.

105. The panel identified the following aggravating factors in this case:

- a. Mr Kelly has not engaged with Social Work England in relation to this hearing; He has not provided a response to the majority of the allegations;
- b. Mr Kelly has not reflected on the impact of his behaviour on Service User A or public confidence in the profession;
- c. There were several failures to identify and act on risks to children, which were serious enough to amount to misconduct;
- d. There is no reflection by Mr Kelly on the impact of these omissions on vulnerable children.

106. The panel first of all considered whether to take no further action. It noted that in a case where it has found serious failings and where it has identified there is a risk of repetition of sexually motivated conduct and omissions relating to preventing risk to children, no further action would be inappropriate.

107. The panel next went on to consider whether a warning order would be appropriate. This is a non-restrictive sanction. It would be inappropriate where a risk of repetition in relation to sexually motivated misconduct and omissions regarding identifying and preventing risk to children has been identified.

108. The panel next considered whether a conditions of practice order would be appropriate. Paragraph 89 of the Sanctions Guidance states:

'Decision makers must also be satisfied that the social worker is willing and capable of complying with conditions.'

109. Mr Kelly has not engaged with Social Work England and there is nothing before the panel to suggest that he would be willing to comply with conditions.

110. Conditions would not, in any event, be appropriate to address the sexually motivated misconduct in this case, for which the panel has identified a risk of repetition.

111. The panel noted the following paragraphs of the Sanctions Guidance which indicate that this is not a case where conditions would be appropriate:

'102. Social workers hold privileged positions of trust. Their role often requires them to engage with people over extended periods when those people may be highly vulnerable. It is essential to the effective delivery of social work that the public can trust social workers implicitly. Any abuse of trust by a social worker is a serious and unacceptable risk in terms of public protection and confidence in the profession as a whole.'

103. Decision makers must assess each case on its merits and must apply proportionality considering any mitigating or aggravating factors present. However, most cases of serious abuses of trust are likely to require suspension or removal of registration. Decision makers should provide detailed reasoning to explain lesser sanctions in such cases.'

105. Abuse of professional position to pursue a sexual or improper emotional or social relationship with a service user or a member of their family or a work colleague is a serious abuse of trust. Many people will be accessing social care for reasons that increase their vulnerability and that of their family. Pursuit of a sexual or improper emotional or social relationship with a vulnerable person is likely to require a more serious sanction against a social worker. '

112. The panel concluded that a conditions of practice order was neither workable nor appropriate in this case.

113. The panel next considered a suspension order. It noted the following paragraphs of the Sanctions Guidance:

92. Suspension orders can be imposed for a period of up to three years. Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option.

93. In deciding on the period of suspension, decision makers should consider the need to protect the public and the wider public interest. They should balance this against the risk that prolonged suspension may result in deskilling. Where possible, it is in the public interest to support the return to practise of a trained and skilled social worker if this can be achieved safely. This means the risk of deskilling is a public interest consideration.'

114. The panel noted that Mr Kelly does not appear to have worked as a social worker since 2018, and he will already be fairly significantly deskilled. A suspension would deskill him further.

115. The panel further noted Mr Kelly's stated wish to be removed from the social work register. The panel took into account when considering a suspension order the lack of engagement by Mr Kelly, his lack of insight and evidence of remediation and its conclusion that there is a risk of repetition which remains very high in relation to Allegation 2. As no attempt has yet been made to address the concerns at Allegation 2, the development of insight and evidence of remediation will take a considerable amount of time.

116. The panel was of the view that the failure by Mr Kelly to demonstrate real insight and remediation regarding his sexually motivated misconduct compounds the damage to public trust and confidence in the profession.

117. The panel noted that a suspension order would protect the public, where there is an identified risk of repetition, as it would prevent Mr Kelly from working. However, the panel concluded that so serious were its findings in this case that Mr Kelly had abused his position of trust with a vulnerable service user to attempt to pursue a sexual relationship with her,

and put children at unwarranted risk of serious harm by failing to identify and act on risks, that a suspension order would not be appropriate.

118. The panel next considered a removal order. The panel noted paragraph 97 of the Sanctions Guidance which provides:

'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. A decision to impose a removal order should explain why lesser sanctions are insufficient to meet these objectives.'

119. The panel noted that it cannot impose a removal order in a case of lack of competence. It reminded itself that some although not all of its findings of fact which helped demonstrate a lack of competence across Mr Kelly's work, were so serious in themselves that they amounted to misconduct. These alone would not lead to a removal order. However, the damage to the public's trust in the profession caused by placing children at unwarranted risk of harm, is compounded by the panel's serious findings in relation to sexually motivated misconduct.

120. No lesser sanction than removal from the register can achieve the over-arching objective of protecting the public, and in particular the need to:

- a. protect, promote and maintain the health, safety and well-being of the public;
- b. promote and maintain public confidence in the profession; and
- c. promote and maintain proper professional standards of conduct for members of the profession.

121. The panel noted the impact that a removal order will have on Mr Kelly's ability to practise, but concluded that the public interest outweighed Mr Kelly's interests in this case.

122. The panel concluded to impose a removal order in relation to Mr Kelly's registration.

Interim order

123. Under paragraph 11(1) (b) of Schedule 2 of the Regulations the panel may make an interim order where they are making a final order.

124. Ms Gillet submitted that an interim order of suspension was necessary for the protection of the public and otherwise in the public interest, as the removal order will not take effect during the appeal period, or if an appeal is lodged until the appeal is concluded. She reminded the panel of its findings in this case and relied upon those in her submissions as to why an interim suspension order should be put in place.

125. The panel accepted the advice of the legal adviser that it may make an interim order where it considers it necessary for the protection of the public or in the best interests of the social worker. Protection of the public can include wider public interest grounds.
126. 126. The panel had regard to the relevant paragraphs of the Sanctions Guidance that deal with interim orders, and reminded itself that an interim order can be for suspension or conditions and can last for a total period of 18 months.
127. The panel concluded that an interim order of suspension is necessary:
- a. for the protection of the public given the identified risk of repetition which could impact the health, safety and well-being of the public; and
 - b. in the wider public interest given the identified impact upon trust and confidence in the profession.
128. The panel could not formulate any workable conditions that could be imposed on an interim basis, and therefore determined to impose an interim order of suspension for 18 months to cover any possible appeal.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, Mr Kelly may appeal to the High Court against 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. Under paragraph 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.
4. 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

5. Under paragraph 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.
6. 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.