

Social worker: Safiya Kara
Registration number: SW103134
Fitness to practise:
Final hearing

Date(s) of hearing: 16 – 20 November 2020, 23 November 2020 and 8 – 15 March 2021

Hearing Venue: Remote Hearing

Hearing outcome: Removal

Interim order: Interim Suspension Order (12 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.
2. Ms Kara attended from 18 November 2020 and was represented by Mr Ahmed, who appeared on her behalf from 16 November 2020.
3. Social Work England was represented by Mr Alex Mills instructed by Capsticks LLP.

Adjudicators	Role
Name: Gill Mullen	Chair
Name: Carolyn Spray	Social Worker Adjudicator
Name: Lynne Vernon	Lay Adjudicator

Name: Calvin Ngwenya/Tom Stoker	Hearings Officer
Name: Robbie Morgan/Laura Merrill/Kathryn Tinsley	Hearing Support Officer
Name: William Hoskins	Legal Adviser

Preliminary applications: Postponement to 18 November 2020

4. On 16 November 2020, at the outset of the case, Mr Ahmed applied for a short postponement to 18 November 2020. The purpose of the postponement was so that he and his assistant could travel to Leicester and support the social worker during the course of the remote hearing. **[PRIVATE]**
5. Mr Mills told the panel that Social Work England did not object to the postponement application, having regard to the circumstances explained by Mr Ahmed. The witnesses to be called by Social Work England were available on Wednesday, 18th and Thursday 19 November. Mr Mills indicated that he intended to produce a written opening note to assist the panel and which would also be of benefit to the social worker.
6. The panel accepted the advice of the legal adviser that this was essentially a case management decision to be taken in the light of the various matters referred to by Mr Ahmed.
7. Having considered the matter, the panel acceded to Mr Ahmed's application. The panel concluded that it was very important for the social worker to be able to participate effectively in the hearing and that this consideration outweighed the inconvenience of

the short delay now requested. The panel therefore postponed the commencement of the case to Wednesday 18 November 2020 at 9.30 am.

Allegations:

8. The allegations as amended were as follows:

Whilst registered as a social worker and employed by Leicestershire County Council ('the Council'), you:

1. In relation to Service User A:

(a) between 3 November 2016 and 18 January 2017, inappropriately accessed Service User A's Post Office account on approximately 9 occasions;

(b) inappropriately withdrew money from Service User A's Post Office account:

(i) between 3 November 2016 and 20 December 2016, on one or more of the occasions listed in Schedule A, at a time when there were concerns regarding Service User A's capacity;

(ii) on 18 January 2017, when Service User A had been deemed by you to lack capacity in respect of finances;

(c) on unknown dates between 28 October 2016 and 25 July 2017, misappropriated approximately £3,000 of the total £6,000 that had been withdrawn from Service User A's Post Office Account;

(d) did not record the amount of money withdrawn from Service User A's Post Office account on 28 October 2016;

(e) did not record that money had been withdrawn from Service User A's Post Office account on one or more of the occasions listed at Schedule B;

(f) did not take steps to progress an application to the Court of Protection in a timely manner, in that having been sent a "COP3" form on 15 September 2016 to complete, you did not submit a completed COP3 form until 16 January 2017.

2. In relation to Service User B:

(a) between 26 October 2016 and 21 June 2017, inappropriately accessed Service User B's Santander account on approximately 17 occasions;

(b) inappropriately withdrew money from Service User B's Santander account:

(i) between 26 October 2016 and 25 January 2017, on one or more occasions listed at Schedule C, at a time when there were concerns regarding Service User B's capacity;

(ii) between 3 February 2017 and 21 June 2017, on one or more occasions listed at Schedule E, when Service User B had been deemed by you to lack capacity in respect of finances;

(c) did not record the amount of money withdrawn from Service User B's Santander account and/or how it was accounted for on one or more of the occasions listed in Schedule D;

(d) did not:

(i) complete a Mental Capacity Assessment ("MCA") in a timely manner, in that you did not complete an MCA until 3 February 2017;

(ii) take steps to progress an application to the Court of Protection in a timely manner, in that an application to the Court of Protection was not progressed until June 2017;

(e) in:

(i) a conversation with Service User B's neighbour on or around 12 April 2017, gave the impression that the Council was safeguarding Service User B's finances, when this was not the case;

(ii) a communication with an advocate supporting Service User B, on or around 11 January 2017, did not correct the advocate's impression that the Council were partly managing Service User B's finances, when this was not the case.

3. Between 19 September 2017 and 27 September 2017, accessed the following service users' case records, without authorisation and/or a professional reason for doing so:

(a) Service User A on seven occasions;

(b) Service User B on six occasions;

(c) Service User C on two occasions;

(d) Service User D on one occasion;

(e) Service User E on one occasion;

4. Acted dishonestly in respect of Service User A, in that:

(a) as set out at particular 1(c), you misappropriated approximately £3000 belonging to Service User A;

(b) some or all of the failure to make adequate records of withdrawals identified at particular 1(e) was with the intention of disguising your misappropriation of Service User A's funds;

(c) some of the delay in progressing an application to the Court of Protection as identified at particular 1(f) was with the intention of being able to keep accessing Service User A's funds for misappropriation.

5. The matters set out at paragraphs 1- 4 amount to misconduct.

6. By reason of your misconduct, your fitness to practise is impaired.

Schedule A:

- (i) 3 November 2016;
- (ii) 8 November 2016;
- (iii) 11 November 2016
- (iv) 14 November 2016
- (v) 25 November 2016
- (vi) 28 November 2016
- (vii) 2 December 2016
- (viii) 20 December 2016

Schedule B:

- (i) 3 November 2016;
- (ii) 8 November 2016;
- (iii) 11 November 2016;
- (iv) 14 November 2016;
- (v) 25 November 2016;
- (vi) 28 November 2016;
- (vii) 2 December 2016;
- (viii) 20 December 2016;
- (ix) 18 January 2017.

Schedule C:

- (i) 26 October 2016;
- (ii) 9 November 2016;

- (iii) 5 December 2016;
- (iv) 29 December 2016;
- (v) 4 January 2017;
- (vi) 19 January 2017;
- (vii) 25 January 2017;

Schedule D:

- (i) 26 October 2016
- (ii) 9 November 2016
- (iii) 5 December 2016
- (iv) 29 December 2016
- (v) 4 January 2017
- (vi) 19 January 2017
- (vii) 25 January 2017
- (viii) 3 February 2017
- (ix) 1 April 2017
- (x) 31 May 2017
- (xi) 13 June 2017
- (xii) 20 June 2017
- (xiii) 21 June 2017

Schedule E

- (i) 3 February 2017;
- (ii) 3 March 2017;
- (iii) 1 April 2017;
- (iv) 23 May 2017;
- (v) 31 May 2017;
- (vi) 13 June 2017;

(vii) 20 June 2017;

(viii) 21 June 2017.

Amendment of the allegations and further adjournment part heard:

9. On 18 November 2020 Mr Mills applied to amend the allegations so that they now appear in the form which is set out above. There was no objection to this application from Mr Ahmed.
10. The panel accepted the advice of the legal adviser and allowed the amendments. They did not cause any unfairness to Ms Kara.
11. No admissions were made to the amended allegations.
12. On 18 November 2020 Mr Mills opened the case on behalf of Social Work England. The panel then heard oral evidence from Neil Parry, Service Manager at Leicestershire County Council, Niru Patel, also a Service Manager at Leicestershire County Council, and Phillipa Wood, Senior Human Resources Adviser at the Council. The basis of the case against Ms Kara and the evidence of these witnesses will be summarised in the final determination.
13. On 23 November 2020, at the close of the case for Social Work England, the panel adjourned the hearing part heard with further dates to be fixed to hear the case on behalf of Ms Kara and to reach the necessary findings. Provisional dates at present are 7 further days from 8 March 2021.
14. The hearing resumed on 8 March 2021.

Background

15. Ms Kara was employed by Leicestershire County Council [“the Council”] as a newly qualified social worker from 19 October 2015 to 27 April 2018, having previously worked for the Council as a community support worker from 13 April 2015. She was employed in adult social care, working with service users aged 65 and above until 1 July 2017 when she moved to the Working Age Adult team.
16. The allegations mainly relate to her practice in relation to two Service Users, service User A and service user B, in the latter part of 2016 and the early part of 2017. These allegations relate to the circumstances in which she came to access and withdraw money from their personal accounts, alleged failures to record these financial transactions and alleged failures to progress, in a timely manner, applications to the Court of Protection in respect of these service users.
17. There is also a separate allegation that, in September 2017, she accessed a number of service users’ case records, including those of service user A and B, without authorisation and a professional reason for doing so.

18. There is a specific allegation of dishonesty in relation only to aspects of her conduct in relation to service user A. In relation to this service user, it is alleged that she misappropriated approximately £3,000; failed to make appropriate records with the intention of disguising her misappropriation of funds; and delayed the progress of an application to the Court of Protection with the intention of preserving her ability to access service user A's funds.

Evidence: oral and documentary

19. The panel heard oral evidence from three witnesses called by Social Work England. These were Neil Parry, Niru Patel and Philippa Wood. Neil Parry was a Service Manager at the Council and Ms Kara's line manager from December 2015 until March 2017. Niru Patel was also a Service Manager at the Council and Ms Kara's line manager from April 2017 to May 2017. Philippa Wood was a Senior Human Resources Adviser at the Council who was asked to investigate matters and interviewed Ms Kara and others in the course of her investigation.
20. The evidence of the Service Managers will be considered in more detail in relation to the specific allegations. At this stage it is only necessary to say that the general thrust of their evidence was that it was inappropriate for an individual social worker to be accessing service users' accounts and withdrawing money and that, once concerns about a service users' mental capacity to manage money had arisen, it was imperative for an application under the Mental Capacity Act to be progressed and for usual procedures to be followed. They both denied knowing of the access to accounts and withdrawals made by Ms Kara. Mr Parry told the panel that Ms Kara had attended training courses in respect of the Mental Capacity Act and understood her responsibilities in this area.
21. The panel also read witness statements from a number of witnesses on various points of detail. These were: Manager 1, Linda Willars, Val Rhodes and Tracy Ward. Their evidence was read as neither party wished to ask further questions of these witnesses. It will be referred to, as necessary, in its appropriate context.
22. Ms Kara gave oral evidence to the panel. She accepted that she had accessed the accounts of service users A and B and had withdrawn money from those accounts. She said that, she had done so to support the service users, meet their needs and, in the case of service user A, to build up a cash reserve. Her general position was that she was an inexperienced social worker who had not been adequately trained for the tasks which she was undertaking and who was not being properly supervised. She challenged the assertion that her managers Neil Parry and Niru Patel did not know the way in which she was supporting these service users and stated that she was unaware of any pressing requirement to expedite applications under the Mental Capacity Act once an assessment of mental capacity had been carried out.
23. **[PRIVATE]**. She considered her workload to be heavy, particularly for someone undertaking their Assessed and Supported Year in Employment (ASYE) **[PRIVATE]**.

24. She denied any dishonesty.
25. She accepted that she had accessed the accounts of various service users as alleged at Charge 3 with a view to finding out what it was that she was to be interviewed about in September 2017
26. The panel was provided with a large bundle of documents which included, amongst other material:
- the case records for the service users who were referred to in the allegations;
 - mental capacity assessments in respect of those service users,
 - documents relating to Court of Protection applications;
 - Service users' Post Office account/bank statements;
 - supervision records relating to Ms Kara;
 - records of courses attended by Ms Kara
 - the records of interviews conducted during the investigation by the Council;
 - various guidance documents; and
 - **[PRIVATE]**.

Submissions and Legal Advice

27. The panel heard oral submissions from Mr Mills on behalf of Social Work England and Mr Ahmed on behalf of Ms Kara.
28. Mr Mills invited the panel to pay close attention to the contemporary records. He reminded the panel that there was no record of nine withdrawals made from Service User A's account and no record of Ms Kara's service manager being notified that this was the way in which she was managing Service User A's money, He also invited the panel to draw an adverse inference from the fact that withdrawals stopped after the application to the Court of Protection had been sent to the property finance team on 18 January 2017. He further invited an adverse inference in respect of the amount of money withdrawn from Service User A's account and what he characterised as "implausible" evidence in relation to the circumstances in which Ms Kara came to, on her account, exchange £3000 in the office safe for the same or similar sum in larger denomination notes.
29. Mr Mills reminded the panel that the allegation of dishonesty was limited to the way in which £3000 of service user A's money had been dealt with. He submitted that the dishonesty had arisen after Ms Kara had realised she could access Service User A's account easily. He referred the panel to the approach to be taken when considering the issue of dishonesty set out in *Ivey v Genting Casinos Ltd [2017] UKSC 67*.

30. In relation to points that had been raised about Ms Kara's [PRIVATE], training and supervision he invited the panel to consider the training records and the quality of some of Ms Kara's record-keeping which, he submitted, indicated that Ms Kara could be a capable record-keeper. He invited the panel to accept the evidence of Neil Parry and Niru Patel and to conclude that the investigation carried out by Philippa Wood was fair so that answers given in interviews could be taken into account.
31. Mr Ahmed, on behalf of Ms Kara submitted that the panel was faced with a case involving an inexperienced social worker who was [PRIVATE] and who had not been adequately trained and was not properly supervised.
32. He invited the panel to conclude that Ms Kara had given an honest and credible account of her conduct, which had at all times been designed to assist service users. He submitted that she had been given inadequate support by her managers and that it was widely known, and certainly by her managers, that the bank cards and money of service users A and B was being managed in the way described by Ms Kara. He submitted that any verbal guidance from Mr Parry had been insufficient and that [PRIVATE].
33. Mr Ahmed further submitted that the contents of the interviews carried out by Ms Wood could not be safely relied upon. Ms Wood had little understanding of [PRIVATE] and the representative who accompanied Ms Kara was also untrained in this respect. [PRIVATE].
34. He noted that there was no written policy about the way in which service users' money should be handled and that Mr Parry was overworked and had not provided proper managerial supervision. He pointed out that no funds had actually gone missing as it was common ground that Ms Kara had placed £3000 in the safe at some point. The police had decided to take no further action.
35. He invited the panel to consider carefully Ms Kara's evidence [PRIVATE].
36. The Legal Adviser reminded the panel of the burden and standard of proof and of the care with which the latter needed to be applied in cases involving allegations of dishonesty. The panel would need to consider both the evidence of the witnesses and the contemporaneous documentary evidence.
37. The panel was also reminded of the approach to dishonesty set out in *Ivey v Genting Casinos Ltd* and of the function of character evidence. Ms Kara was a person of good character.

Findings of fact

38. The panel's findings of fact are as follows:

Whilst registered as a social worker and employed by Leicestershire County Council ('the Council'), you:

1. In relation to Service User A:

(a) between 3 November 2016 and 18 January 2017, inappropriately accessed Service User A's Post Office account on approximately 9 occasions;

Ms Kara in her evidence accepted that she had accessed Service User A's account by herself on approximately nine occasions and that she now realised that it was inappropriate for her to have done this. She denied knowing it was inappropriate at the time and asserted that her managers knew that this was what she was doing.

Both Neil Parry and Niru Patel stated firmly that it would never be appropriate for a social worker to access the account of a service user. Once a concern about mental capacity had arisen, a set procedure had to be followed and this would not involve a social worker accessing a service users' account. Both Mr Parry and Ms Patel denied any knowledge of the withdrawals made by Ms Kara and were consistent in their evidence that the procedures that Ms Kara had adopted in this case were highly unusual.

Ms Patel was only Ms Kara's line manager for a brief period in April and May 2017. Mr Parry had been her line manager since 2015. In his evidence he accepted that he had not been able to find a considerable amount of documentation relating to his supervision of Ms Kara and Ms Kara's own evidence was that he was usually too busy to address any concerns that she had. This was particularly unfortunate given Ms Kara's health condition and limited level of experience.

However, although Mr Parry may well not have adequately discharged his responsibilities as a manager the panel judged him to be an honest and reliable witness on this aspect of the case. The panel also considered Ms Patel to be an honest and reliable witness.

The panel accepted Mr Parry's evidence on this disputed point. The access to Service User A's account was inappropriate and it was not sanctioned by him. He was unaware of it and, when he discovered it during the subsequent investigation, regarded it as highly irregular.

This allegation is **Proved**.

(b) inappropriately withdrew money from Service User A's Post Office account:

(i) between 3 November 2016 and 20 December 2016, on one or more of the occasions listed in Schedule A, at a time when there were concerns regarding Service User A's capacity;

(ii) on 18 January 2017, when Service User A had been deemed by you to lack capacity in respect of finances;

Ms Kara accepted that she had withdrawn money on the occasions alleged.

The case records for service user A show that on 30 August 2016 Ms Kara informed service user A's brother that "the council will have to apply for COP to manage SUA finances." In September 2016 the records show further discussions between Ms Kara and others at the Council about the future management of Service User A's finances. The Mental Capacity Assessment, completed by Ms Kara and signed on 22 December 2016 records visits in August and September 2016 in which concerns about service user A's ability to manage her finances were identified. The assessment concluded that service user A did not have capacity to manage her finances.

The case records indicate that Ms Kara sent a Court of Protection application to the Council's Property and Finance Officer on 18 January 2017.

The panel is satisfied that the records clearly demonstrate that there were concerns about service user A's ability to manage her finances between August 2016 and December 2016 and that these concerns had crystallised into a formal assessment of lack of capacity by 22 December 2016. Ms Kara has not disputed the withdrawals alleged over this period.

The panel's findings as to the lack of knowledge of Neil Parry are repeated in relation to this charge.

This allegation is **Proved**.

(c) on unknown dates between 28 October 2016 and 25 July 2017, misappropriated approximately £3,000 of the total £6,000 that had been withdrawn from Service User A's Post Office Account;

In her witness statement, dated 16.09.2020, Ms Kara stated that she made a number of withdrawals from service user A's account and paid some bills, depositing the balance not used to pay bills in the office safe at the Council offices in Bassett Street. She stated that she later decided to change the money in the safe for notes of larger denominations so as to take up less space in the safe. She exchanged money on a number of occasions, sometimes in the office, and "The rest of the money I swapped at my house when I took it home around March 2017 for around 3 to 4 days..."

Ms Kara told Tracy Ward at a meeting on 26 September 2017 that there was a sum of £3000 (belonging to service user A) "in the safe downstairs". Tracy Ward was the Council's Head of Service Adults and Communities. Subsequently Ms Kara was interviewed, as part of the Council's investigation, and this topic was explored.

The investigatory interviews were conducted by Ms Wood. The answers recorded were not necessarily absolutely verbatim but were noted at the time and Ms Kara was given an opportunity to comment on the notes. She was accompanied during the interview and there were breaks. The panel finds that the recorded answers can be relied upon.

During the course of the first investigatory interview Ms Kara is noted as having said “I left the money in Bassett Street safe. There was £3000 in the safe at Bassett Street....It had been there all the time. I had just been adding to it”. After Ms Kara had stated that the money in the safe was the actual money withdrawn from service user A’s account, Ms Wood said: “So if the police check the serial number of the notes that were found in the safe, they will match the serial numbers of the notes issued by the PO?” To this Ms Kara is noted as having responded: “No because I changed them notes. I changed that money a long time ago. I had a lot of money because I was buying a kitchen. I had lots of £50 notes and I needed change. I had £4000-£5000 on me as I was buying a kitchen. It would have been easier putting it in the safe with £50 rather than with £10 and £5 notes.”

Later in the interview, she is noted as having said “I took £3000 home. I can’t remember when. I took it to swap for £50 notes... I took a massive risk... I do carry large amounts of money as I do borrow money to people... I just wanted to change it “. She was asked how long and why she had kept the money at home and is noted as having replied “Probably about three weeks...I can’t remember. I don’t know I just thought I’d put it back whenever I’ve got time. Like I say I move a lot of money about”. She went on to deny having used the money for anything.

During the course of a further interview on 13 December 2017 she stated: “I didn’t take the money home for three weeks...I took the money home for 3 to 4 days something like that... I just got flustered last time I was here”. When asked why she had taken the money home she said “I don’t think I was going back to Bassett Street. I can’t really remember”. When asked why she had earlier given a period of three weeks she said “I don’t know. It just came off the cuff.”

The panel noted the witness statement of Linda Willars who stated that she had telephoned Val Rhodes, Admin team Leader, on 25 July 2017 and asked her to check the safe at Bassett Street “for anything relating to service user A. Ms Rhodes told me that she could not see anything in the safe with Service User A’s name on it”.

Ms Rhodes now has no recollection of being asked to check the safe and had little recollection when interviewed by Ms Wood on 22 January 2018, though she did remember the fact of the phone call. She was however prepared to accept Ms Rhodes’ recollection. She said that, if anything, she would have expected to find a sealed envelope with service user A’s name on it, the date it was put in the safe and the identity of whoever was responsible for it. After explaining the nature of the check that she would expect to have carried out, she said “I wouldn’t have told Linda I’d checked the safe if I hadn’t.”

The panel has noted that the evidence adduced in support of the absence of any envelope relating to service user A in the safe on 25 July 2017 is hearsay, emanating

solely from Ms Willars. Nonetheless, there is no reason to suppose that Ms Willars recollection of what happened is at fault and the panel accepts as a matter of probability that there was no envelope bearing service user A's name in the Bassett Street safe on 25 July 2017.

Further, the panel notes, that on her own varying accounts, Ms Kara had removed money belonging to service user A from the Bassett Street safe and had taken it to her home. On her own accounts, the period of time for which she retained this money has differed and the reason given for removing it has also varied. The panel finds the explanation advanced in her witness statement to be implausible. All that can be said with confidence is that, on her account, she has removed money belonging to a service user from a safe on Council premises when there was no good reason to do so and subsequently substituted different bank notes. In the panel's judgement this in itself amounts to misappropriation of the money withdrawn from service user A's account and would be sufficient to find this allegation proved.

However, the panel makes clear that it also finds this allegation proved on the basis that on 25 July there was no envelope containing money belonging to service user A in the Bassett Street safe.

This allegation is **Proved**.

(d) did not record the amount of money withdrawn from Service User A's Post Office account on 28 October 2016;

The panel considered the note in service User A's case records for 28 October 2016. The note was made by Ms Kara and reads, so far as is relevant,: "Took SUA to collect some money from the post office...SUA was happy to get some funds as she stated she does not like to be in debt. Gave...£200 of which £51 was owed by SUA for her hair and amenities...."

Ms Kara accepts that £600 was withdrawn on this occasion, as on others, but there is no reference to this sum in the note.

This allegation is **Proved**.

(e) did not record that money had been withdrawn from Service User A's Post Office account on one or more of the occasions listed at Schedule B;

Ms Kara has accepted that money was withdrawn on the occasions listed in Schedule B. There is no record of these withdrawals in the case notes of service user A, or in any other document produced by Ms Kara.

This allegation is **Proved**.

(f) did not take steps to progress an application to the Court of Protection in a timely manner, in that having been sent a “COP3” form on 15 September 2016 to complete, you did not submit a completed COP3 form until 16 January 2017.

The panel had regard to a timeline drawn up by the Council’s Property and Finance Officer. This referred to the COP 3 being sent to Ms Kara on 15 September 2016, a chasing email being sent on 22 December 2016 and an email from Ms Kara on 16 January 2017 explaining that the COP3 form was in the post.

Service user A’s records confirm that Ms Kara “managed to speak to SUA about the COP3” on 15 September 2016, the chasing email of 22 December 2016, an email of 16 January 2017 from Ms Kara apologising for the delay and an email of 18 January from Ms Kara stating that she had “posted the wet signed COP3 it will reach you through internal post.”

The dates in this allegation were not the subject of any challenge from Ms Kara. The panel is satisfied that Ms Kara understood the need for timely action as a result of the training she had undertaken which included; eLearning, involving an introduction to the Mental Capacity Act on 11 May 2015 and a seminar on Making applications to the Court of Protection on 3 February 2016; and a half- day workshop on “Writing capacity assessments and best interests decisions in practice” attended on 8 November 2016.

This allegation is **Proved**

2. In relation to Service User B:

(a) between 26 October 2016 and 21 June 2017, inappropriately accessed Service User B’s Santander account on approximately 17 occasions;

Ms Kara during the course of her oral evidence was taken to the entries in the bank statement relating to these withdrawals and accepted them.

The finding which the panel has already made about the reliability of the evidence of Mr Parry is repeated and applies here as it did in respect of the similar allegation relating to service user A. The panel also found Ms Patel to be an honest and reliable witness. It accepted her account on this point. The panel therefore finds that neither manager knew that service user B’s account was being accessed by Ms Kara. The access was inappropriate.

This allegation is **Proved**

(b) inappropriately withdrew money from Service User B’s Santander account:

(i) between 26 October 2016 and 25 January 2017, on one or more occasions listed at Schedule C, at a time when there were concerns regarding Service User B's capacity;

(ii) between 3 February 2017 and 21 June 2017, on one or more occasions listed at Schedule E, when Service User B had been deemed by you to lack capacity in respect of finances;

After being taken to the entries in the bank statement, Ms Kara did not dispute that she had made the withdrawals.

Service User B's case records confirm discussions relating to Service user B's vulnerabilities including a fluctuating memory from 25 October 2016. On 8 December 2016 a referral to Age UK was made in relation to Service User B's finances and Ms Kara spoke to the service user about the possibility of the Council managing her finances.

On 3 February 2017 Ms Kara completed a Mental Capacity Assessment which recommended an application to the Court of Protection so that service user B's finances could be managed by the Council.

This allegation is **Proved**

(c) did not record the amount of money withdrawn from Service User B's Santander account and/or how it was accounted for on one or more of the occasions listed in Schedule D;

The panel had regard to service user B's case records. These did not show a record of the withdrawals specified in Schedule D.

This allegation is **Proved**

(d) did not:

(i) complete a Mental Capacity Assessment ("MCA") in a timely manner, in that you did not complete an MCA until 3 February 2017;

(ii) take steps to progress an application to the Court of Protection in a timely manner, in that an application to the Court of Protection was not progressed until June 2017;

As previously noted, the Mental Capacity Assessment in respect of service user B was signed by Ms Kara on 3 February 2017 although service user B's vulnerabilities had been the subject of entries in the records since October 2016. The Assessment itself stated that "Multiple visits to service user B's home identified that service user B does not have the cognitive ability to retain information around her finances". It also states "I

spoke to SUB about decisions around her finances 18/11/2016 and she excepted (sic) the fact that her memory fails her when making important decisions around money”.

Although Ms Kara referred in her oral evidence to service user B having fluctuating capacity, similar concerns recur in the case records from October 2016. The panel concluded that a Mental Capacity Assessment should have been completed before February 2017.

Service User B’s case records show that “COP24 sent to [the Property and Finance Officer] on 30 June 2017. This is four months after the Mental Capacity Assessment was undertaken and there appears to be no good reason for this delay. The panel has already noted the evidence of training in this area received by Ms K. Relevant to this period of delay is also attendance on a one -day course on “Assessing capacity and making best interests decisions”, attended on 6 January 2017.

This allegation is **Proved**

(e) in:

(i) a conversation with Service User B’s neighbour on or around 12 April 2017, gave the impression that the Council was safeguarding Service User B’s finances, when this was not the case;

(ii) a communication with an advocate supporting Service User B, on or around 11 January 2017, did not correct the advocate’s impression that the Council were partly managing Service User B’s finances, when this was not the case.

The panel did not hear any oral evidence in support of these allegations which were based upon entries that Ms Kara had made in the case records. In her oral evidence Ms Kara explained that all she was trying to do during the conversations referred to in the records was explain to the neighbour and advocate respectively that the Council, through her involvement, were now involved in the management of service user B’s finances. She was not seeking to suggest that the Court of Protection had appointed a Deputy.

The relevant part of the April 2017 entry reads “I explain to NA that yes there were concerns in December/January that SUB was not managing her finances appropriately but since February 2017 SUB has better structure as we have now conducted a MCA and put safeguards in place”.

The January entry reads, so far as relevant, that service user B had explained to [] that she understood that SW has her card and that her finances are managed partly by LCC”.

The panel is not satisfied on a balance of probabilities that Ms Kara was seeking to create a misleading impression on either of these occasions. The references in the records are consistent with her involvement as a social worker in service user B's case.

This allegation is **Not Proved**.

3. Between 19 September 2017 and 27 September 2017, accessed the following service users' case records, without authorisation and/or a professional reason for doing so:

(a) Service User A on seven occasions;

(b) Service User B on six occasions;

(c) Service User C on two occasions;

(d) Service User D on one occasion;

(e) Service User E on one occasion;

Ms Kara accepted that she had accessed these records with a view to finding out what Tracy Ward might wish to speak to her about in September 2017. She accepted that she was no longer responsible as a social worker for the cases of these service users.

The panel accepts Ms Woods' evidence that Ms Kara should not have accessed these records as she was no longer professionally involved with these cases

The panel has therefore concluded that she was not authorised to access these records and had no legitimate professional reason to do so.

This allegation is **Proved**.

4. Acted dishonestly in respect of Service User A, in that:

(a) as set out at particular 1(c), you misappropriated approximately £3000 belonging to Service User A;

The panel has found that there was no item belonging to service user A in the office safe at Bassett Street on 25 July 2017. The only evidence that sums were deposited in the Bassett Street safe comes from Ms Kara's assertion that that is what she did. The panel has found her accounts of the reasons why she says she removed and exchanged sums of money in the safe to be implausible. Whether or not the £3000 was ever deposited in the safe, and whether or not it was subsequently exchanged for notes in different denominations, the panel is satisfied that Ms Kara dealt with this sum of £3000, belonging to service user A, as if it was, for some period of time, money which she was entitled to access. In the panel's judgment ordinary, decent people would regard that as dishonest.

This allegation is **Proved**.

(b) some or all of the failure to make adequate records of withdrawals identified at particular 1(e) was with the intention of disguising your misappropriation of Service User A's funds;

Although service user A's case records, created by Ms Kara, are on a number of occasions fairly detailed and do contain references to various sums of money, it is noteworthy that there is no reference whatsoever to the fact that on the various occasions set out in the allegation, Ms Kara had withdrawn the maximum sum permitted, in cash. Further, there is no mention in her closing summary of previous withdrawals and £3000 in the Bassett Street safe. The panel does not accept that pressure of work, inexperience or **[PRIVATE]** explains this consistent lack of any reference to frequent, substantial and repeated cash withdrawals.

On a balance of probabilities, the panel has concluded that some or all of the failure to make adequate records of the withdrawals identified at particular 1(e) was with the intention of disguising the misappropriation of service user A's funds. A proper record of such withdrawals might have occasioned investigation if the case records had been inspected.

This allegation is **Proved**.

(c) some of the delay in progressing an application to the Court of Protection as identified at particular 1(f) was with the intention of being able to keep accessing Service User A's funds for misappropriation.

The panel has noted the suggestive correlation of date between the last cash withdrawal on 18 January 2017 and the date on which the COP 3 is recorded as having been sent by internal post to the Property and Finance Officer.

However, the panel does not consider that there is sufficient evidence to conclude that this delay was as a matter of probability linked with a desire to continue to access service user A's account. There were a number of other factors which could explain delay, in particular general workload.

This allegation is **Not Proved**.

Misconduct and Impairment

39. Mr Mills on behalf of Social Work England invited the panel to find misconduct established. He contended that there had been significant breaches of the applicable

Standards in force at the time. He referred the panel to the *Health and Care Professions Council Standards 2016* and in particular the following required duties:

1. Promote and Protect the interests of service users.

9. Be honest and trustworthy; in particular;

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession and

10. Keep accurate records; in particular;

10.1 You must keep full, clear and accurate records for everyone you care for treat, or provide other services to.

40. Mr Mills submitted that the dishonesty which the panel had found proved amounted to a serious breach of trust.
41. In relation to other aspects of the case he invited the panel to consider the highly irregular access to service users accounts, the failure to keep proper records, the failure to progress applications to the Court of Protection and the unauthorised access to service users' records.
42. In relation to impairment, Mr Mills invited the panel to make a finding of impairment both on public protection grounds and on wider public interest grounds. He invited the panel to consider the question of Ms Kara's insight and referred the panel to the approach set out in *CHRE v NMC & Grant* [2011] EWHC 927 (Admin). He submitted that the public interest required a finding of impairment in this case.
43. Mr Ahmed, on behalf of Ms Kara, stated that she accepted current impairment and made no further submissions at this stage.
44. The Legal Adviser reminded the panel that it needed to undertake a two-stage process; first of all, to consider whether misconduct was established and, if so, to go on to consider whether Ms Kara's fitness to practise was currently impaired by reason of that misconduct. Both were questions for the panel's judgment. Misconduct connoted a serious departure from generally accepted professional standards. Impairment required consideration both of remediation and insight and of whether the public interest required a finding of impairment to be made.
45. The panel considered that the finding of dishonesty that it had made, in relation to the misappropriation of service users' funds, was a serious departure from generally accepted standards of professional behaviour and amounted to misconduct. It involved a significant breach of trust in relation to a vulnerable service user and was a clear breach of Standards 1 and 9 referred to above.

46. The panel also concluded that the accessing of service users accounts to withdraw money also amounted to conduct which fell far below appropriate standards, as was the failure to keep full and accurate records in accordance with Standard 10.
47. The panel did not consider the failure to expedite Court of Protection applications and the unauthorised access to service users records to be sufficiently serious, in all the circumstances of this case, to amount to misconduct. These actions fell short of appropriate standards but were not so far short as to require a finding of misconduct. In the case of access to the records, the panel took into account that service users' information was not disclosed and Ms Kara's concern as to the matters to be discussed at a forthcoming interview was understandable. In the case of Court of Protection applications, the panel took into account her workload, experience and other difficulties which had been referred to in evidence together with the lack of effective supervision.
48. The panel went on to consider the question of current impairment in the light of its findings in relation to misconduct.
49. Dishonesty was always difficult to remediate. The panel noted that Ms Kara had accepted its findings but, as yet, had provided no further evidence that full insight into the seriousness of her misconduct had developed. In these circumstances the panel concluded that it could not be satisfied that the risk of repetition was so low as not to warrant a finding of impairment on grounds of public protection. The panel therefore concluded that a finding of impairment was necessary on grounds of public protection.
50. Similar considerations arose in relation to the misconduct arising from the withdrawals from service users' accounts and the failure to keep full and accurate records. No evidence of sufficient remediation in respect of these matters was before the panel. However, the panel did note the references in Ms Kara's witness statement to the positive impact effective supervision she had received in her later posting at the Council had had on her practice. She had also undertaken further training and reading relevant to working in adult social care.
51. In any event however, the panel is satisfied that the public interest requires a finding of current impairment to be made. A reasonable and fully informed member of the public would be very concerned if a finding was not made in the circumstances of this case, which involves the misappropriation of a vulnerable service users' money, albeit that that money had been repaid.
52. The panel therefore finds that Ms Kara's fitness to practise is currently impaired on grounds both of public protection and the wider public interest.

Sanction

53. Mr Mills, on behalf of Social Work England, submitted that removal was the appropriate sanction. He referred the panel to the Sanctions Guidance and, in particular, the passages dealing with cases of dishonesty and breach of trust. He submitted that this was a serious case of dishonesty, in respect of which only limited insight had been shown, and that public protection and the public interest required a removal order.
54. Mr Ahmed, on behalf of Ms Kara, referred the panel to the witness statement that Ms Kara had prepared for this part of the case and to the testimonials that she had submitted together with the evidence of training. He submitted that Ms Kara had shown insight and emphasised her regret at events. He asked the panel to attach weight to Ms Kara's personal circumstances as set out in her witness statement and to bear in mind her disability which, in his submission, had impacted upon the way in which matters had developed. He submitted that a removal order would be disproportionate and invited the panel to impose a conditions of practice order.
55. The Legal Adviser reminded the panel that the purpose of sanction was not to punish but to arrive at a proportionate outcome to the case, having regard to the need to protect the public and satisfy the public interest. He referred the panel to the Sanctions Guidance, which set out a principled approach to sanction, and reminded the panel of the need to consider sanction in ascending order.
56. The panel first considered the aggravating circumstances of the case. These were that the case of Service User A involved sustained rather than momentary dishonesty in relation to money belonging to a vulnerable service user and was therefore a serious breach of trust. There had also been attempts to conceal the dishonesty by the failure to record withdrawals in the case record and the advancing of an implausible explanation when the matter was investigated.
57. In the panel's assessment, Ms Kara had shown limited insight. She had expressed regret and remorse but there was no evidence of significant reflection, in particular upon the implications that this kind of behaviour had upon the profession or upon public perception of the profession.
58. The mitigating circumstances were that no money had actually been lost. Ms Kara was of previous good character and had been able to submit positive testimonials. She was an inexperienced social worker at the time of these events, and more active supervision might have ensured that the opportunity for the dishonesty did not occur but this could not excuse the dishonesty itself.
59. The panel considered that the aggravating circumstances outweighed the mitigating circumstances.

60. The panel considered sanction in ascending order.
61. The panel concluded that there were no exceptional circumstances which would justify taking no further action. Such a course would be wholly inappropriate.
62. The panel also considered that advice or a warning would not reflect the seriousness of the concerns.
63. The panel next considered a conditions of practice order. The panel had regard to the Sanctions Guidance which stated that conditions were less likely to be appropriate in cases of character, attitudinal or behavioural failings and would almost certainly be insufficient in cases of dishonesty and abuse of trust. The panel did not consider that this was a suitable case for conditions. It involved dishonesty and abuse of trust and conditions of practice could not be formulated to address these failings. Nor would a conditions of practice order be sufficient to satisfy the public interest.
64. The panel next considered a suspension order. This order would protect the public while it was in force. However, the aggravating circumstances of this case were such that the panel considered that a suspension order would not be sufficient to satisfy the public interest. The panel concluded that a reasonable and fully-informed member of the public would not regard a suspension order as a proportionate outcome to the misconduct and impairment in this case; in particular the dishonesty, abuse of trust and the attempts to conceal the same.
65. In the panel's assessment a removal order is the only sanction which is sufficient to protect the public, maintain confidence in the profession and maintain proper professional standards for social workers in England.
66. The panel therefore directs that Ms Kara's name is removed from the Register.

Interim Order

67. Mr Mills on behalf of Social Work England, applied for an interim suspension order to cover the appeal period and any period during which an appeal, if lodged, could be resolved. He referred the panel to the Social Worker Regulations 2018, Schedule 2 paragraphs 8 (6), 11 and 14 and submitted that the combined effect of those paragraphs was such as to enable the panel to revoke the existing interim order which was due to expire in May and substitute a new interim order for 12 months. He submitted that this was a preferable course to leaving the existing interim order in place and later applying to the High Court, if necessary, for an extension.
68. Mr Mills submitted that the need for an interim order was apparent from the terms of the panel's decision and from the fact that the panel's substantive order would not come into effect until 28 days from notification of the decision or upon the resolution of any appeal from that decision.

69. Mr Ahmed made no substantive submissions in relation to the need for an interim order. He was content to endorse the approach recommended by Mr Mills.
70. The Legal Adviser reminded the panel of the need to be satisfied that any interim order was necessary for the protection of the public and referred the panel to those parts of the 2018 Regulations referred to by Mr Mills.
71. The panel concluded that an interim order was necessary for the protection of the public, which included the wider public interest and that an interim suspension order for 12 months should be imposed. The need for an interim suspension order arose from the terms of the panel's findings and any other approach would be inconsistent with those findings. The panel considered that it was preferable to revoke the existing order and impose a new order in the light of its findings.
72. The panel therefore revoked the existing interim order, under paragraph 14 of Schedule 2 of the 2018 Regulations, and imposed an interim suspension order for a period of 12 months under paragraph 11 (1) (b) of those Regulations. The panel concluded that a period of 12 months was sufficient to enable any appeal, if lodged to be resolved.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social worker 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.