

Social Worker: Mariam Komolafe

Registration Number: SW95533

Fitness to Practise

Final Order Review Meeting:

Meeting Venue: Remote meeting

Date of meeting: 30 April 2021

Final Order being reviewed: Suspension Order – (expiring on 13 June 2021)

Hearing Outcome: Removal Order

Introduction and attendees

1. This was the third review of a final suspension order originally imposed for a period of twelve months by a Fitness to Practise Committee of the Health and Care Professions Council (HCPC) on 16 November 2018.
2. Ms Komolafe did not attend the meeting.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Debbie Hill	Chair
Carolyn Spray	Social Work Adjudicator
Sally Underwood	Lay Adjudicator

Hearings Team/Legal Adviser	Role
Tom Stoker	Hearings Officer
Laura Merrill	Hearing Support Officer
Nathan Moxon	Legal Adviser

Service of Notice:

4. The panel of adjudicators (hereafter the panel) had careful regard to the documents contained in the substantive order review hearing service bundle as follows:
 - i. A copy of the notice of substantive order review hearing dated 19 April 2021 and addressed to Ms Komolafe at her postal and email addresses as they appear on the Social Work England Register;
 - ii. An extract from the Social Work England Register detailing Ms Komolafe's registered postal and email addresses;

- iii. A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 19 April 2021 the writer sent by next day delivery to Ms Komolafe at the address referred to above and by electronic mail to the email address referred to above, Notice of Hearing and related documents.
- iv. A copy of the Royal Mail Track and Trace Document indicating “signed for” delivery to Ms Komolafe’s registered address at 8:47am on 20 April 2021;
- v. Completed ‘Hearing Participation Form’, signed by Ms Komofale and dated 20 April 2021, and upon which she has selected the option that states that she:

“..will not be attending the electronic hearing and I have not prepared written submissions to be considered in advance of the review. I also understand that in my absence, the review may instead proceed as a meeting”

- 5. The panel accepted the advice of the legal adviser in relation to service of notice.
- 6. Having had regard to the fitness to practise rules and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Komolafe and that she had received the same.

Proceeding with the final order review as a meeting:

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

“If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 26 April 2021. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and the adjudicators may decide to deal with the review as a meeting. If the adjudicators do hold a meeting, they will be provided with a copy of this letter setting out Social Work England’s submissions and a copy of any written submissions you provide.”

- 8. The panel heard and accepted the advice of the legal adviser with regard to Rule 16(d) of the Rules which provides:

“Where the registered social worker makes written submissions and states that they do not intend to attend before the regulator, the regulator may

direct that the question of whether an order should be made is determined by means of a meeting.”

9. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(d). Ms Komolafe had not attended the previous review and had clearly stated within the ‘Hearing Participation Form’ that she did not intend to attend and that she was aware that the review may be heard as a meeting in her absence. The panel concluded that adjourning the review would not secure Ms Komolafe’s participation on a future occasion as she had made a conscious decision to absent herself.

Review of the current order:

10. The final order review hearing fell under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review was determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England’s Fitness to Practise Rules.

11. The final order was due to expire at the end of 13 June 2021.

The allegations found proved:

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

Whilst registered as a Social Worker and during the course of your employment at Medway Council you:

1. In relation to the home visit concerning Child A which took place on or around 7 December 2015:

a) Did not recommend and/or record that you had recommended that contact between Child A and her Father should stop whilst a risk assessment was undertaken;

b) Not proved;

c) Not proved;

d) Not proved.

2. In relation to Family A, upon receiving an email from Residence A on or around 5 January 2016, did not advise and/or record advising Child A's Mother during the telephone call on or around 5 January 2016, that she was:

a) Breaching the rules of Residence A by letting males into her home; and/or

b) Putting her tenancy at risk.

3. In relation to Family A, at a meeting held on or around 22 January 2016 reported to your Team Manager that there were no concerns in relation to the parenting of Child A by her mother, despite concerns having been raised relating to Child A's welfare.

4. In relation to Child D, did not act upon your own suggestion to escalate the concerns to a Child Protection Conference.

5. In relation to Family I:

a) Did not attempt to carry out and/or make a record of attempting to carry out direct work with the father in relation to his behaviour and the impact on the children;

b) Did not carry out and / or make a record of carrying out direct work with Child I1 and/or Child I2 and/or Child I3.

6. Not proved.

7. In relation to Family B:

a) Did not advise and/or make a record of advising Family B's mother of the decision to initiate pre-proceedings at the home visit on or around 29 December 2015;

b) Did not attempt to, and/or record attempting to, ascertain the identity of the unknown individuals who were present during the home visits on or around:

i. 20 August 2015; and/or,

ii. 26 October 2015.

c) Not proved;

d) Did not adequately communicate and/or make a record of adequately communicating with partner agencies, including:

i. the Police; and/or,

ii. the parenting programme attended by Child B's mother; and/or,

iii. the children's centre attended by the family; and/or,

iv. the freedom programme.

8. Did not question and/or challenge the mother during the core group meeting which took place in relation to Family C on or around 18 June 2015, when it came to light the father had been to the family home.

9. At a Child Protection Conference on or around 27 January 2015, in relation to Family E:

a) Did not question Child E's mother regarding Child E's poor school attendance when this issue was raised;

b) Did not adequately question and/or challenge Child E's mother regarding an incident of domestic abuse;

c) Did not discuss the likely outcomes if the parents did not engage.

10. In relation to Family G:

a) Not proved;

b) Not proved;

c) Did not record adequate observations in relation to Child G2 in respect of your visit on 5 February 2015.

11. Did not escalate matters appropriately to management in that you:

a) In relation to Child A:

i. Not proved;

ii. Did not discuss with management in a timely manner and/or at all concerns surrounding the incident reported by Child A's mother on or around 29 December 2015;

iii. Did not raise the concerns regarding drugs which had been reported on or around 5 January 2016, with the Team Manager in a timely manner;

iv. Not proved.

b) In relation to Child D, you did not discuss Child D's lack of progress or meaningful change with:

i. Your Team Manager in a timely manner and/or at all; and/or

ii. Other professionals.

12. Did not consistently carry out visits within statutory timescales:

a) In relation to Family B between approximately 19 September 2015 and 29 December 2015;

b) In relation to Family G between approximately 25 January 2015 and 6 January 2016;

c) In relation to Family H between approximately 20 November 2015 and 25 January 2016;

d) In relation to Family I between approximately 10 December 2015 and 21 January 2016.

13. In relation to Child F:

a) Did not upload to the record keeping system documentation relating to direct work with Child F and/or record of the outcome;

b) Following Child F's disclosure in October 2014 about the issue involving her mother's partner discussing a sex toy with them, you did not:

i. Discuss and record that you had discussed the issue with your manager in a timely manner;

ii. Conduct and/or record that you had conducted a home visit in a timely manner;

iii. Discuss and / or record that you had discussed the issue with Child F in a timely manner and/or at all;

iv. Establish and/or record if the partner of Mother F consented to background checks in a timely manner and/or at all.

14. The matters set out in paragraphs 1 - 13 constitute lack of competence.

15. By reason of your lack of competence your fitness to practise is impaired.

Findings of the final hearing panel on 16 November 2018:

13. In determining that Ms Komolafe's fitness to practice was impaired on the grounds of lack of competence, the final hearing panel took the view that the context and working environment in which Ms Komolafe found herself as a newly qualified Social Worker may have impacted on her confidence and on her ability to learn and develop her skills. She was not adequately mentored or supported given her experience and knowledge at this early time in practice.

14. The final hearing panel found that the evidence indicated that there were four key areas where Ms Komolafe lacked competence and her performance was unacceptably low. It also considered the HCPC "Standards of Proficiency for Social Workers" and concluded that the findings of fact indicated that Ms Komolafe had breached a number of Standards of Proficiency. The panel concluded that its findings of fact amounted to a lack of competence, not misconduct.

15. In considering its decision on impairment the final hearing panel noted that Ms Komolafe had not engaged meaningfully with the proceedings. She had advised that she would not be attending the hearing and therefore the Panel had no evidence of any insight, remorse or remediation or evidence about her current circumstances or future plans.

16. The final hearing panel was mindful of the central importance of protecting the public. It noted that the lack of competence found related to many incidents over a lengthy period of time and included failures to recognise and assess risk; to record, report and escalate concerns; and failures to communicate adequately with management and with the appropriate agencies. It stated that whilst there was no evidence of any direct proven harm being caused to service users, the failures had the potential to cause harm as Ms Komolafe worked with vulnerable families and children.
17. The final hearing panel took the view that the lack of competence was remediable but there was no evidence of any remediation or insight by Ms Komolafe. In those circumstances, the final hearing panel determined that there was a real risk of repetition of the behaviour leading to the finding of lack of competence, and it could not be satisfied that Ms Komolafe could practise safely without restriction.
18. The final hearing panel also had regard to the public interest considerations. Ms Komolafe's failings were such that a reasonably informed member of the public would be concerned if a finding of impairment was not made. The panel was mindful of the need to maintain confidence in the profession and to declare and uphold proper standards and concluded that the public interest required a finding of current impairment.
19. Accordingly, the final hearing panel found Ms Komolafe's fitness to practise was currently impaired by reason of her lack of competence.
20. In considering sanction, the final hearing panel identified a number of mitigating and aggravating factors and was mindful of the lack of any evidence of the Registrant's insight, remorse, or remediation. It considered the sanctions available in ascending order of severity. Given the risk of repetition and lack of evidence of insight, remorse, or remediation it concluded that a Suspension Order for 12 months was the appropriate and proportionate sanction. It indicated that a future reviewing panel would be assisted by the Ms Komolafe:
 - a. Engaging with the process.
 - b. Providing evidence such as, for example, a reflective piece of writing showing remorse, insight, and remediation.
 - c. Detailing up to date evidence of the how she has addressed the four key issues the Panel identified, for example through work, paid or unpaid, in the care sector and supplying details of any relevant training and professional development.
 - d. Supplying relevant professional testimonials or references.

Previous review hearings:

21. The final order was reviewed by review panels on 15 November 2019 and 23 October 2020. On both occasions, the review panels determined that the suspension order should be extended.
22. Ms Komolafe did not attend the first review and instead submitted written submissions, which included the following:

“ I hope this letter gives you a clear insight to my thoughts and feelings about the process and where I am right now. I hope that you can understand why I have made my decision not to further practice as a social worker.”

23. The first review panel considered that Ms Komofale had demonstrated some insight but that this was insufficient in relation to what it described as the sustained and widespread failings in her practice. The first review panel found that the risk of harm to the vulnerable families she worked with remained. Accordingly, the first review panel found that Ms Komolafe’s fitness to practice remained impaired and imposed a suspension order for a further period of 12 months.

24. In advance of the second review, Ms Komofale sent an email which stated the following:

“I’m writing in response to the notice of substantive order review on 23rd October 2020.

I would like to inform you that I do not have representation for the fitness to practice case review on 23rd October. I have also not prepared a written submission to be considered in advance of the review.

I understand that the adjudicators may view this as non-compliance, however as I have stated previously, I do not wish to practice as a social worker in future and I have not practiced since 2016.

I have also attached the hearing participation form for your reference. Should you require any further information from me please do not hesitate to contact me.”

25. The second review panel found that Ms Komofale had not engaged meaningfully with the proceedings. She had not attended the final hearing nor had she attended subsequent reviews. The second review panel noted that Ms Komolafe had not submitted any further evidence of reflection or remediation.

26. The second review panel concluded the following when determining that Ms Komolafe's practice remained impaired:

"The panel notes that in 2019, Ms Komolafe provided evidence of some reflection and insight into the seriousness of her failings and had she wished to continue practice in the future as a social worker her failings may have been capable of remediation. However, Ms Komolafe has made it clear that she does not wish to practice again as a social worker and has not provided any further evidence of reflection, insight, or remediation. In these circumstances the panel concludes that the original failings have not been remedied and therefore there remains a risk of repetition and of harm to the public, including service users. In light of these factors, the panel also considers that public confidence in the profession would be undermined if a finding of impairment was not made. Accordingly, the panel finds Ms Komolafe's fitness to practice remains impaired."

27. Having found Ms Komolafe's fitness to practise was currently impaired, the second review panel concluded that the suspension order should be extended for a period of 6 months. The panel was satisfied that this period was appropriate as it would provide Ms Komolafe with an opportunity to further reflect upon her decision that she does not wish to practise again as a social worker. A future review panel would have a full range of sanction options available, including that of a removal order.

28. The second review detailed the following in relation to action that Ms Komolafe should take in preparation for the present review:

"This panel cannot bind a future panel and should Ms Komolafe change her mind about resuming work as a social worker, a future reviewing panel would expect her to attend the review hearing and it would be of assistance to that panel if she was able to provide evidence that she has undertaken meaningful steps to address the deficiencies in her practice and facilitate a safe and effective return to the register without restriction. This may include

- (i) Reflections on why she has decided to endeavour to return to social work and her thoughts about the type of social work she would like to undertake
- (ii) Evidence that she has sought to keep her social work skills and knowledge up to date and address the areas of deficiency in her practice which have been highlighted in these proceedings. This may include evidence of online learning, reading or attendance on courses."

Social Work England submissions:

29. The submissions of Social Work England were contained within the notice of hearing for this third review hearing:

“The Panel are invited to consider making a removal order. The Social Worker has not provided the relevant evidence to satisfy the Panel that she has remediated her lack of competence and is capable of safe and effective practice. She has not provided any further material since the previous review. The Social Worker has now been subject to a continuous order of suspension since December 2018.

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

Social Worker submissions:

30. Ms Komolafe did not provide any submissions or evidence for the hearing.

Decision and reasons on current impairment:

31. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous review panels. However, it exercised its own judgement in relation to the question of current impairment.
32. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and previous review panels. The panel also took account of the submissions made on behalf of Social Work England.
33. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.
34. The panel noted that the final hearing panel found that Ms Komolafe had limited insight and had demonstrated insufficient remediation into her lack of competence. Both the final hearing panel and the review panels provided clear and reasonable guidance to Ms Komolafe as to how she could seek to demonstrate developing insight and remediation. Regrettably, she had failed to follow this guidance and had continued to disengage with proceedings. She did adduce some submissions to the first review panel that showed

developing, but insufficient, insight. Thereafter, she failed to submit any further submissions or evidence. She failed to demonstrate any progress since the first review, which was undertaken over a year ago.

35. In light of the lack of evidence of insight and remediation, and the failure of Ms Komolafe to adequately engage with these regulatory proceedings, the panel found that there was a substantial risk that of repetition of her failings and that a finding that her fitness to practice was impaired therefore remained necessary to protect the public.
36. Further, in light of Ms Komolafe's lack of evidenced insight and remediation, together with her lack of engagement in these proceedings, the panel concluded that members of the public would be deeply concerned if her fitness to practice was not found to be impaired and that such a finding would undermine public confidence in the profession. Such a finding would similarly fail to uphold professional standards.

Decision and reasons on sanction:

37. Having found Ms Komolafe's fitness to practise was currently impaired, the panel then considered what, if any, sanction it should impose in this case.
38. The panel considered the submissions made on behalf of Social Work England. The panel also took into account the Sanctions Guidance published by Social Work England.
39. The panel was mindful that the purpose of any sanction was not to punish Ms Komolafe, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Komolafe's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

40. The panel concluded that, in view of the nature and seriousness of Ms Komolafe failings, which had not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

41. The panel then considered whether to issue advice or a warning. The panel noted that neither of those sanctions would restrict Ms Komolafe's ability to practise and was therefore not appropriate due to the existing risk to public safety. Ms Komolafe's failings had the potential to have significantly adverse consequences and therefore some restriction on her practise was required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

42. The panel went on to consider a conditions of practice order. The panel considered the nature of Ms Komolafe's failings. The panel found that suitable conditions could not be formulated to adequately protect the public and satisfy the public interest. This was because Ms Komolafe was unlikely to comply with conditions in light of her failure to engage with the review proceedings and her assertion that she does not intend to work in social work. Further, her lack of engagement and evidenced insight and remediation was such that the panel was not satisfied that the risk of harm to the public could be managed by conditions and also found that conditions would be insufficient to maintain public confidence or professional standards.

Suspension Order

43. Having determined that a conditions of practice order would not be appropriate, the panel considered whether to impose a further period of suspension. The panel concluded that this would not be appropriate or proportionate in all of the circumstances. Ms Komolafe had been subject to a final order of suspension for over two years and had failed, in that time, to demonstrate adequate insight and remediation into her actions. Instead, she had disengaged with proceedings. The panel therefore concluded that, having failed to utilise the opportunities given by the original panel and review panels, there was little prospect of Ms Komolafe utilising any subsequent opportunities. Further, the panel concluded that it would not maintain public confidence in the profession or professional standards to impose a fourth period of suspension upon a social worker who had failed to utilise the previous periods of suspension to demonstrate remediation and insight.

Removal Order

44. The panel had regard to the fact that a removal order was not available in cases of lack of competence or capability, unless the social worker's registration had already been subject to a suspension on those grounds for a continuous period of at least two years. A removal order was available to the present panel as Ms Komolafe had been suspended for a continuous period of over two years.

45. The panel noted that a removal order was a sanction of last resort where there was no other means of protecting the public or the wider public interest. The panel took the view that a removal order was necessary, appropriate and proportionate in this matter in light of the serious nature of Ms Komolafe's failings and the absence of adequate engagement with the regulatory proceedings. She had failed to demonstrate and evidence adequate insight and remediation. The panel concluded that whilst the public could be protected from harm by restricting Ms Komolafe from practising by way of a suspension order, a fourth period of suspension would not serve the wider public interest. The panel concluded that, in all of the circumstances, an order for removal was the only order that would adequately maintain public confidence in the profession and professional standards.

Right of Appeal:

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

a. the decision of adjudicators:

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

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

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

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

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

49. Under regulation 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:

- 15 (2) – The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
- 15 (3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.

50. 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.