

Social worker: Mark Coupland

Reg number: SW22864

Fitness to practise:

Final hearing

Date of hearing: 30 June – 2 July 2021

Hearing venue: Remote hearing

Hearing outcome: Removal Order

Interim order: Interim Suspension Order (18 months)

[This is a public version of this determination.](#)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Coupland did not attend and was not represented.
3. Social Work England was represented by James Kyle, of Counsel.

Adjudicators	Role
Michael McCulley	Chair
Rosemary Chapman	Social Worker Adjudicator
Karen Phillips	Lay Adjudicator

Natasha Quainoo	Hearings Officer
Shane Jeetoo	Hearing Support Officer
Lucia Whittle-Martin	Legal Adviser

Notice of Service:

4. Mr Coupland did not attend and was not represented. The panel of adjudicators ("the panel") was informed by Mr Kyle that notice of this hearing had been sent to Mr Coupland by email to his address on the Social Work Register (the Register). Mr Kyle 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.
6. Having had regard to Rules 14,15,44 and 45 of the Social Work England Fitness to Practise Rules 2019 as amended ("the Rules"), and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Coupland in accordance with the Rules.

Proceeding in the absence of the social worker:

7. Mr Kyle submitted that notice of this hearing had been duly served, and that Mr Coupland had expressed that he did not wish to attend and only wanted to be notified of the outcome of this hearing. Mr Kyle invited the panel to proceed in the absence of Mr Coupland.

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 the cases of *R v Jones [2003] UKPC* and *General Medical Council v Adeogba [2016] EWCA Civ 162*, and to Rule 43.
9. The panel took account of an email from Mr Coupland dated 12 January 2021, informing Social Work England that he wished to be removed from the Register and that he did not want to receive any documentation relating to these proceedings other than a copy of the final outcome. Social Work England emailed Mr Coupland on 19 January 2021, setting out the regulatory concern and offering Mr Coupland an opportunity to respond, but Mr Coupland provided no further response. Social Work England disclosed its case to Mr Coupland on 21 May 2021 but Mr Coupland did not provide a response, nor did he engage in the case management meeting that followed on 11 June 2021. A further email was sent to Mr Coupland on 22 June 2021, enquiring whether he wanted to provide a response to the allegations, whether he intended to attend the final hearing and if not, whether he objected to the hearing proceeding in his absence. Mr Coupland did not respond, despite a request to do so by 23 June 2021.
10. In all the circumstances the panel concluded that Mr Coupland had decided to absent himself from the hearing. It was clear that he did not want to engage in these proceedings and merely wanted to be advised of the outcome. He had not requested an adjournment and in the circumstances the panel concluded that it was highly unlikely that an adjournment would result in his attendance at a later date. The panel concluded that it was in the public interest for the matter to be heard expeditiously.
11. Accordingly, the panel decided to proceed in the absence of Mr Coupland.

Allegation

Whilst registered as a Social Worker;

1. *On 30 May 2019 you accepted a Simple Adult Caution for the offence of Voyeurism (s67. Sexual Offences Act 2003)*
2. *On 14 May 2020 you were included by the Disclosure and Barring Service in the Adults' Barred List and the Children's Barred List on the grounds of section 60(1) of the Safeguarding Vulnerable Groups Act 2006(a) or article 2(2A) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(b).*

By reason of your caution and/or being included by the Disclosure and Barring Service in a barred list, your fitness to practise is impaired.

Background summary of Evidence

12. On 17 May 2018, the Health and Care Professions Council (HCPC), the regulator for social workers in England at that time, received a referral regarding Mr Coupland. The referral was made by North Lincolnshire Council (the Council) where he had been employed until he resigned on 17 September 2018. His work for the Council involved working with children and vulnerable adults.
13. This referral was in relation to Mr Coupland's conduct at Ancholme Leisure Centre on 10 May 2018 for which, on 30 May 2019, he received a police Caution for the criminal offence of voyeurism, contrary to Section 67 of the Sexual Offences Act 2003. On 18 June 2019 the Humberside Police Station submitted a referral to the HCPC in relation to this disposal.
14. On 14 May 2020, as a result of this caution, Mr Coupland was placed on both the Adults' Barred List and the Children's Barred List by the Disclosure and Barring Service (DBS).
15. The facts lying behind the administration of the caution and decision made by the Disclosure and Barring Service, are that on 10 May 2018, the police were called to an incident involving Mr Coupland at Ancholme Leisure Centre, where he had been accused of placing his mobile phone under his changing room cubicle, to take footage of an adult and a four year old child who were in the next door cubicle. Mr Coupland was arrested and taken to Scunthorpe Police Station where he was interviewed. He denied the allegation. The police seized his phone for forensic examination.
16. On 15 May 2018, Mr Coupland attended at Scunthorpe Police Station, asking to be re-interviewed. In his second interview he admitted to placing his phone under cubicles in the changing area at Ancholme Leisure centre and taking images. He accepted the incident that had been reported and admitted to taking three further recordings; one on the day in question and two a few days earlier. Mr Coupland denied that he had done so for the purpose of sexual gratification. He said that he "just put the phone down and recorded the cubicle next to me". He said that he did not know why he had done it, but he accepted that his conduct was wrong and said that he felt disgusted with his actions. He further stated that he had resigned from work and had written to

the HCPC, asking to remove himself from the register, as he felt he did not deserve to be a social worker any more. He stated that he regretted his actions and the harm he had caused himself, his family and the victims.

17. On 2 February 2019, the police informed the HCPC that it was likely that Mr Coupland would be offered a police caution as a result of the offending being “very much at lower level of Sexual Offences”, adding that Mr Coupland had no previous convictions and had admitted the offence in interview. On 30 May 2019, Mr Coupland accepted a Simple Caution for the offence of Voyeurism (s.67. Sexual Offences Act 2003). The definition of “voyeurism” as set out in Section 67 Sexual Offences Act 2003 is:

(1)A person commits an offence if—

(a) for the purpose of obtaining sexual gratification, he observes another person doing a private act, and

(b) he knows that the other person does not consent to being observed for his sexual gratification

18. On 14 May 2020, the Social Worker was included by the DBS in the Adults’ and in the Children’s barred lists. The DBS informed Mr Coupland on 15 May 2020 in their final decision letter, setting out the reasons for this inclusion. Mr Coupland was informed that he would not be entitled to a review of this decision until 14 May 2030. Mr Coupland did not appeal this decision.

19. In an email to HCPC dated 15 September 2019, Mr Coupland responded to the allegation that had been referred by the HCPC’s Investigating Committee stating that what he had done “was wrong and I deeply regret what happened”. He denied that his actions had been sexually motivated. He asked for his name to be removed from the HCPC register.

Finding and reasons on facts

20. The panel accepted the advice of the legal adviser, who reminded the panel that the burden rests on Social Work England to prove the allegation on the balance of probabilities.

Allegation 1: On 30 May 2019 you accepted a Simple Adult Caution for the offence of Voyeurism (s67 Sexual Offences Act 2003)

21. The evidence relied upon for this charge was as follows:

(a) The signed Certificate of Caution. This document evidences that a simple caution was administered to Mr Coupland on 30 May 2019, and was admitted and subsequently signed by him.

(b) Correspondence from Humberside Police regarding the offence, including:

- i. A letter dated 29 May 2018 to the HCPC setting out the details of the alleged offence;
- ii. A letter dated 18 June 2019 to the HCPC stating that Mr Coupland had been issued with a Caution for Voyeurism;
- iii. A Crime Report, setting out the steps taken and decisions made throughout the investigation;
- iv. Transcript of police interview on 15 May 2018.

(c) An email dated 15 September 2019 from Mr Coupland to the HCPC in which Mr Coupland stated that his actions were “wrong and undefendable” and requested that his name be removed from the HCPC register as a result of his offending.

22. The panel found Allegation 1 proved on the basis of the caution and the accompanying documentation.

Allegation 2: On 14 May 2020 you were included by the Disclosure and Barring Service in the Adults’ Barred List and the Children’s Barred list on the grounds of section 60(1) of the Safeguarding Vulnerable Groups Act 2006(a) or article 2(2A) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(b).

23. Social Work England relied on the final decision letter from the Disclosure and Barring Service dated 15 May 2020 as proof that Mr Coupland had been included on both the Adults’ and Children’s Barred List. The letter stated that the minimum period for which Mr Coupland will be included in the barred lists is 10 years.

24. The panel found Allegation 2 proved on the basis of the final decision letter from the DBS dated 15 May 2020.

Submissions by Social Work England on impairment

25. Mr Kyle submitted that the Simple Caution put Mr Coupland in breach of the relevant HCPC Standards of Conduct, Performance and Ethics in place at the time, and in particular:

9. Personal and professional behaviour

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

26. Mr Kyle submitted that Mr Coupland had provided some evidence relevant to insight, in that in his second interview, and in correspondence with his regulator, he had accepted that his actions were wrong. However Mr Coupland's first instinct had been to deny the offence, and when he attended the police station to change his account the evidence against him had been very strong. Further, in both his interview with the police, and in subsequent correspondence with the regulator, Mr Coupland continued to deny that his conduct had been for the purpose of sexual gratification, thereby demonstrating that he lacked true insight.

27. Mr Kyle submitted that Mr Coupland had not engaged properly with Social Work England, stating in correspondence that he wanted the process to be over so that he could move on, nor did he wish to receive any further correspondence save for the outcome. Mr Kyle submitted that this again demonstrated a lack of insight on Mr Coupland's part.

28. **[Private].**

29. Mr Kyle submitted that there is no realistic prospect of Mr Coupland successfully remediating his behaviour in the foreseeable future as he has been placed on the DBS lists until 2030.

30. Mr Kyle submitted that Mr Coupland presents an ongoing risk to the members of the public, and his conduct amounts to a serious shortfall in professional standards which has brought the profession into disrepute.

31. Mr Kyle submitted that a finding of impairment should be made to protect the public and the wider public interest.

Finding and reasons on current impairment

32. The panel accepted the advice of the legal adviser who advised the panel to consider the first three criteria set out in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Paula Grant* [2011] EWHC 927, namely whether the registered social worker:
- *Has in the past acted and/or is liable in the future to act so as to put a member or members of the public at unwarranted risk of harm; and/or*
 - *Has in the past and/or is liable in the future to bring the profession into disrepute; and/or*
 - *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.*
33. In accordance with the case of *Cohen v General Medical Council* [2008] EWHC 581, the legal adviser advised the panel to ask whether Mr Coupland's conduct is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated. She advised the panel to consider whether the behaviour that lay behind Coupland's caution and barring could be regarded as an isolated incident in an otherwise unblemished career and whether Mr Coupland had demonstrated genuine insight into his past behaviour. She advised the panel to ask not only whether Mr Coupland currently poses a risk to members of the public, but whether the need to uphold proper professional standards, and whether public confidence in the social worker and in his profession and his regulator, would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of the case.
34. The panel noted that the DBS reached the conclusion that Mr Coupland had repeatedly attended the swimming pool specifically to photograph members of the public within the changing rooms for his own gratification. The panel agreed with that conclusion and approached its task on that basis.
35. [Private]
36. [Private]
37. The panel took account of Mr Coupland's admissions to the police in his second interview on 15 May 2018. However, the panel viewed this engagement in the light of the circumstances faced by him at the time. The police had by then seized his mobile phone which, to his knowledge, contained illegal images. Further, when making his admissions, Mr Coupland denied that he received any sexual gratification from his behaviour. In accepting the caution on 30 May 2019, he consequently admitted sexual gratification on his part. However, in a subsequent email to his regulator, dated 15 September 2019, in which he described his behaviour as "wrong and undefendable", he denied sexual gratification. Mr Coupland had provided no further material for the consideration of this panel. There was nothing presented by him to demonstrate that

he had remediated his behaviour, had developed insight into his behaviour, or that he had considered the impact of his behaviour on members of the public. In those circumstances the panel concluded that Mr Coupland had not demonstrated genuine insight into his behaviour.

38. The panel concluded that whilst Mr Coupland had been a man of previous good character with an unblemished career, it could not be said that the behaviour that lay behind his police caution amounted to an isolated incident, in that he had admitted to three occasions when he had taken illegal images prior to the occasion when he was arrested by the police.
39. In all the circumstances the panel concluded that there is a significant risk that Mr Coupland will repeat his behaviour, and that he presents a significant risk of harm to members of the public.
40. The panel also concluded that public confidence in the profession and the regulator and the need to promote and maintain proper professional standards for social workers, has been undermined both by Mr Coupland's caution and the decision of the DBS, both of which stem from his illegal activity, namely the taking of images of unsuspecting members of the public, in a public place, for his own sexual gratification. The panel concluded that a reasonable member of the public, in possession of all the facts, would expect a finding of impairment in the circumstances of this case.
41. Accordingly, the panel concluded that Mr Coupland's fitness to practise is currently impaired on both public protection and public interest grounds.

Finding and reasons on sanction

42. Mr Kyle submitted that removal from the register was the appropriate sanction in the circumstances of this case. He submitted that conditions would not be appropriate as Mr Coupland was not practising and had not remediated his behaviour. He submitted that suspension was inappropriate in light of the barring order which was not due to expire for another 9 years, by which time Mr Coupland would be de-skilled. Furthermore, suspension would not send a strong enough message to the public about the seriousness of Mr Coupland's past conduct.
43. The panel accepted the advice of the legal adviser who advised the panel to consider any aggravating and/or mitigating factors in the case, and to approach the range of available sanctions in ascending order of seriousness. She advised that the purpose of sanction is not to be punitive, but is to protect the public, maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour. She advised the panel to act proportionately, balancing the interests of Mr Coupland with those of the public. She advised the panel to take account of Mr Coupland's

previous good character and unblemished career. She advised the panel to take account of Social Work England's Sanctions Guidance.

44. The panel concluded that Mr Coupland's past conduct was mitigated by his previous good character and his recognition that his actions had been wrong.

45. The panel concluded that Mr Coupland's past conduct was aggravated by the fact that he had repeated his conduct by returning to the swimming pool knowing that this would present him with the opportunity of offending again.

No Action

46. The panel concluded that there were no exceptional reasons to merit taking no action.

Advice or Warning

47. The panel concluded that the issuing of advice or a warning would not restrict Mr Coupland's ability to practise, and would be insufficient to protect the public and the wider public interest in the light of the risk currently presented by Mr Coupland, as set out by the panel in its decision on impairment.

Conditions of Practice Order

48. The panel concluded that a conditions of practice order would be insufficient due to the seriousness of the behaviour. Furthermore, it would be unworkable as Mr Coupland was not practising, had demonstrated little insight and had not attended the hearing or confirmed in writing that he would be prepared to abide by any conditions that the panel may see fit to impose.

Suspension Order

49. The panel concluded that a suspension order was insufficient to protect the public and the wider public interest in the light of the seriousness of the allegation. The panel had concluded that there was no evidence of remediation and that Mr Coupland lacked genuine insight into his past behaviour. Furthermore, he had expressed his desire to cease working as a social worker and in those circumstances the panel concluded that a period of suspension would serve no purpose. He had given no indication that he intended to remediate or practise in the future.

Removal Order

50. In all the circumstances the panel decided to impose a removal order. The panel understood that this is the sanction of last resort where there is no other means of protecting the public and the wider public interest. It was the judgement of the panel that any lesser sanction would be insufficient due to the seriousness of the

allegation. Mr Coupland had received a police caution for repeatedly taking images of unsuspecting members of the public in swimming pool cubicles for his sexual gratification and the DBS had barred him from working with children and adults for 10 years. Mr Coupland had provided no evidence of remediation. He had not engaged with the process. The panel had concluded that he lacked genuine insight. In those circumstances the panel had concluded that the risk that he would repeat his behaviour is significant. The panel concluded that only a removal order would be sufficient to protect the public in the circumstances.

51. The panel decided that a removal order was also required to declare and uphold proper standards of behaviour and maintain confidence in the profession and its regulator. Mr Coupland had received a police caution and the DBS had decided to bar Mr Coupland from working with adults and children for a total of 10 years, of which 7 years was yet to run. The panel concluded that Mr Coupland's behaviour was wholly unacceptable and was incompatible with registration.
52. In all the circumstances the panel concluded that the appropriate and proportionate sanction in the circumstances was removal from the Register.

Interim Order

53. Mr Kyle applied under Paragraph 11 of Schedule 2 of The Social Workers Regulations 2018 for an interim suspension order for a period of 18 months, to cover the appeal period.
54. The legal adviser advised that the panel may make any interim order if it considers an order is necessary for the protection of the public or is in the best interests of the social worker. The legal adviser advised the panel to act proportionately in reaching its decision.
55. For the reasons set out in its substantive decision, the panel is satisfied that there remains a significant risk that Mr Coupland will repeat his behaviour if permitted to practise unrestricted in the interim period, and concluded that an interim order is necessary to protect the public and is also in the wider public interest.
56. The panel considered whether an interim conditions of practice order would be sufficient in the circumstances, but concluded, for the same reasons as set out in its substantive decision, that such an order would be insufficient and inappropriate in the circumstances of this case.
57. Accordingly, the panel made an interim order of suspension for a period of 18 months. In accordance with Paragraph 11 (3) (b) of Schedule 2 of The Social Workers Regulations 2018, if there is no appeal against the final order, the interim order will expire when the appeal period expires, and if there is an appeal against the final

order, the interim order will expire when the appeal is withdrawn or otherwise finally disposed of.

Right of Appeal

58. 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.
59. 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.
60. 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.
61. 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

62. 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.
63. 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.