



Social Worker: Kim Suzanne
Hawkes
Registration Number: SW49171
Fitness to Practise: Final Order
Review Meeting

Meeting Venue:	Remote meeting
Date of meeting:	Monday 27 September 2021
Final Order being reviewed:	Suspension Order – (expiring 9 November 2021)
Hearing Outcome:	Removal Order (with effect from expiry of the suspension order on 9 November 2021)

Introduction and attendees

1. This is the second review of a final order originally imposed for a period of 3 years by a Fitness to Practise Committee of the Health and Care Professions Council (HCPC) on 11 October 2017, expiring 9 November 2020. The Interim Conditions of Practice Order imposed by the HCPC was varied and replaced by an order of suspension for a period of 12 months by a panel of adjudicators appointed by Social Work England on 28 September 2020.
2. Mrs Hawkes did not attend the review and was not represented.
3. Social Work England was represented by Capsticks LLP, whose written submissions were set out within the notice of hearing letter.

Adjudicators	Role
Paul Grant	Chair, Lay Adjudicator
Suzanna Jacoby	Social Worker Adjudicator

Hearings Team/Legal Adviser	Role
Tom Stoker	Hearings Officer
Danielle Wild	Hearings Support Officer
Clare Pattinson	Legal Adviser

Preliminary Matters

Service of Notice:

4. The panel of adjudicators (hereafter “the panel”) had careful regard to the documents contained in the substantive order review hearing service bundle as follows:
 - A copy of the notice of substantive order review hearing (“the notice of hearing”) dated 15 September 2021;
 - An extract from the Social Work England Register detailing Mrs Hawkes’ registered address and the email address held by Social Work England;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 15 September 2021 the writer sent the notice of hearing and related documents to the email address held by Social Work England for Mrs Hawkes;

- A copy of the text sent by Social Work England on 16 September 2021 to the telephone number held by Social Work England, providing the password for the emailed notice of hearing and related documents.
5. The panel accepted the advice of the legal adviser in relation to service of notice and had regard to the guidance issued by Social Work England on service of notices.
 6. Having had regard to Rules 16 (reviews), 44 (service) and 45 (date of service) of the Social Work England (Fitness to Practise) Rules 2019 (hereafter “the rules”) and all of the information before it in relation to the service of notice, the panel was satisfied that the Notice of Hearing had been served on the social worker in accordance with the Rules.

Proceeding with the final order review as a meeting:

7. The notice of hearing informed Mrs Hawkes that the review would take place via a virtual hearing electronically as a consequence of the coronavirus (COVID-19) pandemic. The notice stated:
“If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 22 September 2021. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and Social Work England may, under Rule 16 of the Fitness to Practise Rules, decide to deal with the review as a meeting. If the review is dealt with by way of a meeting the adjudicators will be provided with a copy of this letter setting out Social Work England’s submissions and a copy of any written submissions you provide.”
8. The panel was not provided with any information to suggest that Mrs Hawkes had responded to the notice of hearing.
9. The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Rules which provides:
“Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting.”
10. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with paragraph 16(c) of the rules. Mrs Hawkes had been informed of the hearing and invited to submit representations but had chosen not to do so. The panel was content that Mrs Hawkes had not indicated any objection to the matter proceeding as a meeting as set out in the notice of hearing. It therefore proceeded to consider the matter via a meeting in the absence of Mrs Hawkes rather than as a hearing, relying on the information contained within the documentation supplied to it.

Proceeding in private:

11. The panel noted that the bundle of evidence provided to it included substantial material in relation to Mrs Hawkes' health. It noted that Social Work England did not request that its decision be considered a private decision, though correspondence sent on behalf of Mrs Hawkes requested that her privacy and dignity be protected. The panel therefore considered whether it was appropriate for it to issue a public decision of the review outcome.
12. The panel had regard to the advice of the legal assessor, and the information contained on proceeding in private, which is contained within the Social Work England Fitness to Practise Publications Policy. It particularly took into account rules 37 and 38 noting that there is an expectation that matters should generally be considered in public (rule 37), however an exception can be made when required to protect the private life of an individual or in the interests of justice (rule 38).
13. Given the references to Mrs Hawkes' health contained throughout the bundle, the panel considered that it would not be feasible to separate consideration of matters of health from the impairment arising from misconduct. Accordingly, it would be appropriate to produce two versions of the determination, the redacted version being published.

Review of the current order:

14. This final order review hearing is provided for by the Transitional and Savings Provisions (Social Workers) Regulations 2019, which govern matters transferred from the HCPC to Social Work England. The review has been determined in accordance with Part 5 and Schedule 2, paragraph 15 of the Social Work England Regulations 2018 ("the regulations") and the rules.

Allegations found proved amounting to a statutory ground:

15. On 11 October 2017 a panel appointed by the HCPC found a number of allegations proved against Mrs Hawkes. It determined that the following allegations amounted to the statutory ground of impairment by misconduct:

During the course of your employment as a Social Worker at Essex County Council, between 2013 and 2014:

1. In respect of Service User A:

- (g) You did not visit and/or record a visit to Service User A after his fifth day of admission;*
- (h) You did not hold and/or record a safeguarding meeting or a review meeting to explore if Service User A could return home;*

- (l) You did not complete and/or appropriately record an assessment of need;*
- (m) You did not complete and/or appropriately record a support plan for the care provider;*
- (n) You did not complete and/or appropriately record a review of placement in a timely manner.*

2. In respect of Service User B:

- (a) In or around June 2013 you did not appropriately carry out and/or record the mental capacity assessment regarding accommodation;*
- (b) You did not appropriately carry out and/or record a mental capacity assessment regarding finances;*
- (c) In or around June 2013 you did not appropriately carry out and/or record a mental capacity assessment regarding contact with Service User B's son;*
- (d) In or around July 2013 you did not hold and/or record a strategy meeting;*
- (g) You did not complete and/or record a support care plan for the care provider;*

3. In respect of Service User C you:

- (b) Did not carry out and/or record a carer's assessment in or around December 2013;*

4. In respect of Service User D you:

- (a) Did not complete and/or appropriately record a mental capacity assessment;*

5. Your actions described in paragraphs 1-4 amount to misconduct and/or lack of competence.

6. By reason of your misconduct and/or lack of competence, your fitness to practise is impaired.

Background

16. Mrs Hawkes was employed in the Adult Social Care Team at Essex County Council ("the Council"), working in the Older Adults Mental Health Team. She requested a transfer to another team as a result of allegedly being bullied by a senior practitioner. She moved teams in November 2013, then raised further allegations of bullying against three colleagues in her new team.

17. The Council commissioned a review by an independent social work consultant of four of the service users Mrs Hawkes was responsible for in October 2014. A further review was undertaken by the manager of the Council's Adult Safeguards team, in March 2015.

18. The allegations relate to four service users:

- A – aged 91 at the time of the allegations, he lived alone, with deteriorating memory and health. Mrs Hawkes assessed his needs on 1 May 2013 and he was placed in a care home the following day as a result. She identified that he was at risk of harm by way of financial exploitation and had been neglecting his personal care. She was also concerned about his dietary intake, and non-compliance with his medication regime.
- B – aged 88 at the time of the allegations, she was placed into residential care by Mrs Hawkes on 21 June 2013 on a temporary basis due to escalating concerns for her safety while a police investigation was undertaken.
- C – Mrs Hawkes became the allocated social worker for this 47 year old service user with complex mental and physical problems on 28 November 2013. On 14 March 2014, the carer advised that there was no electricity or food in the service user's house, so Mrs Hawkes obtained permission from a senior practitioner to place her in residential care on a temporary basis.
- D – Carer A raised a concern that Mrs Hawkes talked about residential care for this service user from the outset of her involvement in the case – he had early onset dementia and lived with his partner and their two daughters, receiving respite care, in addition to being cared for by his family.

Summary of relevant findings by previous panels:

19. Mrs Hawkes' fitness to practise was found to be impaired in respect of the above listed allegations in October 2017. She did not attend the hearing but provided some written submissions. The panel found:

"148. Although the Registrant's attitude is constructive and reflective, the Panel identified that there remains a high risk of repetition of misconduct if the Registrant were permitted to return to unrestricted practise. The Registrant has not practised since 2014 when, on her own admission, her fitness to practise was impaired. (PRIVATE).

149. In view of the lack of remedial action and the high risk of repetition, in the Panel's judgement the Registrant's fitness to practise is currently impaired by reference to the personal component.

150. The Panel has identified a high risk of repetition of misconduct and therefore there is an ongoing risk to members of the public. It would be unacceptable for vulnerable service users to be exposed to the risks involved. The risk of harm includes the potential that service users might be inappropriately deprived of their liberty.

151. The Registrant's failings were wide-ranging and serious, including failures to visit service users and to complete and/or record important documentation such as assessments of care needs and not fulfilling statutory requirements relating to mental capacity assessments.

152. The Registrant's actions fell far below the standards expected of a Social Worker in relation to four service users. The Panel finds that there is a need to demonstrate the importance of adhering to the fundamental tenets of practice by declaring and upholding proper standards of professional behaviour.

153. The Panel is also of the view that the nature of the risks to service users and the extent to which the Registrant has fallen short of the required standards would have a detrimental effect on the public's confidence in her and in the social work profession. A finding of current impairment is necessary in order to maintain public confidence in the profession and the regulatory process, by sending a clear message that this type of misconduct is wholly unacceptable.

154. Therefore, the Panel finds the Registrant's fitness to practise also impaired by reference to the public component."

20. The substantive hearing panel identified the following aggravating and mitigating feature of Mrs Hawkes' conduct:

"157. The Panel decided that the aggravating features include:

- the findings relate to four vulnerable service users who may not have had capacity to make decisions for themselves;*
- the misconduct had the potential to cause harm to service users.*

158. The Panel decided that the mitigating features include:

- the Registrant's health;*
- the limited supervision provided to the Registrant and the absence of any management plans to address the areas of concern;*
- the Registrant's admissions and expression of remorse;*
- the absence of any previous fitness to practise history;*
- the misconduct was limited to four service users, whereas the Registrant's caseload was approximately 30.*

21. The panel had confidence that Mrs Hawkes would comply with a conditions of practice order, noting that she was engaging in the hearing, albeit without attendance, and had expressly confirmed she would comply with conditions. It found that she had demonstrated insight, remorse and a responsible attitude, (PRIVATE). It then considered what, if any, workable and verifiable conditions could be formulated to adequately manage the risk of repetition it identified should Mrs Hawkes return to work. It concluded that:

“163. The most important consideration for the Panel was whether conditions of practice would address the risk of repetition the Panel has identified. A (PRIVATE) to return to work as a Social Worker will reduce the risk of repetition of misconduct. However, in the Panel’s judgment an improvement (PRIVATE) will not, by itself, be sufficient. There is a requirement for restrictive conditions to ensure that the public is protected against the risk of repetition of misconduct.

164. The Panel decided that the necessary remediation and rehabilitation could safely take place while the Registrant worked as a Social Worker, provided the Registrant’s practice was subject to supervision, close scrutiny and monitoring.

165. In the Panel’s view, the requirement of supervision is both essential and of critical importance in the reduction of the risk of repetition to an acceptable level. A performance development plan is the vehicle for the Registrant to demonstrate remediation of her practice and for her progress to be monitored. In the Panel’s view, it was essential that the safety of the Registrant’s practice should be verified by the provision of three monthly reports by the supervisor to the HCPC. The supervisor could also inform the HCPC of concerns which arose at any time. The HCPC would therefore become aware of any concerns about the safety of the Registrant’s practice as a Social Worker and could take any action it considered appropriate, such as an application for a review of the Conditions of Practice Order. It was also essential that employers are fully aware of the conditions imposed by the Panel. In the Panel’s view, the safeguards set out in the conditions, taken together, provide a high degree of public protection.

166. The conditions of practice will enable the Registrant to return to practice as a Social Worker (PRIVATE). The Panel reminds the Registrant that she will also need to consider and comply with the HCPC guidance on return to practice because she has not practised as a Social Worker since 2014.

22. The interim conditions of practice order imposed upon Mrs Hawkes in 2017 for a period of 3 years was reviewed prior to its expiry by a panel of adjudicators appointed by Social Work England on 28 September 2020. Mrs Hawkes again did not attend the hearing but contact was made by her daughter in advance of the hearing to confirm that (PRIVATE) The reviewing panel found the allegations to be serious and wide ranging, constituting conduct falling far below the standards expected of a social worker. It noted that the last time she practised as a social worker was 18 June 2014, and that she had not engaged with the conditions of practise as a result. It went on to identify that “*there is no evidence before the panel today of engagement with the conditions of practice order, continuous professional development, or remediation of the failings identified at the final hearing*”. In the circumstances it concluded that there was a risk of repetition of the misconduct and an ongoing risk to vulnerable service users. It found her fitness to practise to be impaired on the public and private components of impairment.

23. The reviewing panel was satisfied that the misconduct identified at the substantive hearing was capable of remediation but went on to find that:

".... it is now over 6 years since the social worker practised as a social worker and that furthermore, as a result of the deterioration in her health, she has not been able to engage with the existing conditions of practice order. In these circumstances, the panel concluded that a further conditions of practice order would be unworkable. In reaching this decision, the panel took the view that the lack of progress made since the imposition of the existing conditions of practice order was such that the set of conditions now required to protect the public would be tantamount to a suspension order.

50. The panel therefore concluded that it was not possible to formulate workable conditions that would be sufficient to protect the public and meet the wider public interest concerns."

24. It therefore imposed a suspension order for a period of 12 months, identifying that a future reviewing panel would be assisted by the provision of medical evidence, information as to how she has kept her knowledge and skills up to date and a reflective piece if she wants to return to safe and effective practise as a social worker.

Submissions:

25. The notice of hearing dated 15 September 2021 contained the entirety of Social Work England's submissions, which essentially are that a removal order should be imposed in view of Mrs Hawkes' health and her repeated requests to be removed from the Register. Social Work England highlighted that:

"There remains a risk of repetition of the misconduct and the public would be at direct risk of harm if the Order was allowed to expire and no further Order was made. At this stage, given the Social Worker's lack of engagement, remediation and insight, only a Removal Order would be appropriate to meet the objectives of protecting the public, maintaining public confidence in the profession, and maintaining proper professional standards for social workers."

26. Mrs Hawkes instructed her daughter to correspond with Social Work England on her behalf (PRIVATE), and it was confirmed through email communication on 9 July 2021 that this would be put before this reviewing panel.

Panel decision and reasons on current impairment:

27. The panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decisions of the previous panels but was

conscious that it needed to exercise its own judgement in relation to the question of current impairment.

28. The panel undertook a comprehensive review of the current circumstances. It had regard to all of the documentation before it, which essentially comprised the comprehensive decisions of the substantive panel appointed by the HCPC in October 2017 and the reviewing panel appointed by Social Work England in September 2020, together with the 18 pages of medical information submitted on behalf of Mrs Hawkes.
29. 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 maintaining public confidence in the profession. It also had regard to guidance issued by Social Work England in respect of impairment (contained within the Sanctions guidance), and in respect of self-represented social workers. It was aware that impairment is not defined within legislation and is a matter of judgement for the panel having considered all of the evidence before it. The panel's task was not to go behind the findings of fact made by the substantive panel, but rather to undertake an assessment of what, if any, impairment affects Mrs Hawkes' fitness to practise currently.
30. The tests for impairment are set out in the cases of *Meadow v General Medical Council* [2007] 462 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin). They confirm that the issue of impairment is not about punishment but rather the protection of the public and maintaining confidence in the profession. Guidance issued by Social Work England on impairment identifies factors which may impact on a decision in respect of impairment:
 - *Risk - to what extent did the social worker's actions pose a risk to the public;*
 - *Repetition - have actions that risked the safety of the public been, or could they be, repeated;*
 - *History – whether the social worker has been subject to previous adverse regulatory findings;*
 - *Insight - has the social worker correctly and fully recognised and acknowledged what they did wrong;*
 - *Remediation – has the social worker put right any deficiencies or shortfalls in their practise or behaviour;*
 - *Public confidence in the profession - some concerns are so serious that action is required even if no current risk is identified. Dishonesty cases are likely to be viewed particularly seriously given the access social workers have into people's homes and lives;*

- *Admissions – admission of facts does not lessen the seriousness of a concern*
- *Harm - the extent to which the risk of harm, or the actual harm caused, could and should have been foreseen by the social worker;*
- *Testimonials - the provision of up to date credible information about the social worker's current practice or standing, preferably given in the knowledge of the regulator concerns.*

31. The panel is aware that the test of impairment is expressed in the present tense in relation to the need to protect the public against the acts and omissions of those who are not fit to practise, but this cannot be achieved without taking account of the way a person has acted or failed to act in the past.
32. There is both a personal element and a public element to impairment. When assessing the likelihood of recurrence of harm, panels can take account of the degree of harm caused by the social worker, recognising that the harm could have been greater or less than the harm which was intended or reasonably foreseeable. Panels may also take account of testimonials as to her practice, but no such information had been provided to the panel by the social worker, which is entirely understandable given the state of her health and her desire to be removed from the register.
33. The panel considered Mrs Hawkes' current fitness to practise firstly from the personal perspective. It had regard to the relevant factors of risk, repetition, history, harm and remediation. With regard to insight, the panel took account of her original comments in respect of her conduct, and the remorse expressed. It was satisfied that she understood the serious nature of the conduct.
34. (PRIVATE). The panel had not been provided with any information which addressed the concerns identified by either the substantive panel or the earlier reviewing panel, and it therefore concluded that Mrs Hawkes' fitness to practise remained impaired on the personal aspect of the test for impairment.
35. The panel then considered the "public" element of the test for impairment. In considering the public component of impairment, the panel had regard to the important public policy issues which include the need to maintain confidence in the profession and declare and uphold proper standards of conduct and behaviour by registered professionals. It recognised that some concerns are so serious that action is required even if the social worker poses no current risk to the public, because not marking the conduct could undermine public confidence in social workers generally, or may fail to maintain the professional standards expected of social workers.
36. In this case, there were serious and wide-ranging concerns which had the potential to cause harm to vulnerable service users, though there was no suggestion that any actual

harm had been caused to service users, or that they had been put at risk of harm. However, the panel was concerned that the nature and extent of Mrs Hawkes' medical conditions was not conducive to practising as a social worker, which Mrs Hawkes appeared to readily accept. It was therefore not possible to be confident that there was no risk of repetition of the misconduct if Mrs Hawkes were to return to practise.

37. The panel was also reluctantly satisfied that a finding of impairment was required to uphold the standards of the profession and maintain public confidence in the profession and the regulator. Mrs Hawkes has only engaged with her regulator on a limited basis throughout these regulatory proceedings, and has provided a similarly limited volume of information in support of her position. There is no evidence that she has maintained her skills by practise or training, and no evidence of continuing professional development being undertaken. Although this is entirely understandable due to Mrs Hawkes' health situation, and the fact that she has made it very clear that she does not intend to practise again as a social worker, a member of the public or a fellow professional with knowledge of the facts of this matter would be surprised if a finding of impairment were not made given the information available to the panel, including the unaddressed risk of repetition. Accordingly, the Panel found Mrs Hawkes' fitness to practise also remains impaired on the public aspect of the test for impairment.

Sanction

38. The panel was conscious that Social Work England invited it to impose a removal order, and that Mrs Hawkes expressed an interest in being removed from the register in autumn 2020, after the suspension order was imposed by the last reviewing panel.
39. Given that the panel was satisfied that Mrs Hawkes' fitness to practise remains impaired on both aspects of the test for impairment, it was entirely satisfied that an order was required for the protection of the public interest, to protect the public and in her own interest. No evidence in respect of her current insight or remediation has been provided to the panel. The panel therefore concluded that there was a risk of repetition if she returned to practice given her current circumstances.
40. Having found Mrs Hawke's fitness to practise remains impaired on both aspects and that an order was necessary and proportionate to protect the public and in the wider public interest, the panel was conscious that it was expected to start with the least restrictive sanction available to it until it reached a decision which adequately managed the risk and was proportionate in the circumstances. It was conscious that it could impose any order that would have been available to a panel undertaking a final hearing of the concerns.
41. The panel gave brief consideration to the imposition of a warning but considered that the seriousness of the allegations and lack of remediation, a warning was not appropriate as it would neither protect the public nor satisfy the public interest.

42. The panel then considered whether it could formulate workable and proportionate conditions to impose on Mrs Hawkes' ability to practise which were not tantamount to a suspension. It was mindful that its role was not to punish Mrs Hawkes, rather to protect the public and the wider public interest, which includes maintaining public confidence in the profession and by upholding proper standards of conduct and behaviour. It was also concerned about Mrs Hawkes's own interests given the extent of the medical information provided.
43. The panel concluded that no appropriate and workable conditions could be formulated to manage the risk to the public or in the public interest given Mrs Hawkes' current state of health, lack of evidence of insight or remediation and her stated desire to be removed from the register. The panel also noted that Mrs Hawkes had previously been subject to a three year conditions of practice order and been unable to demonstrate evidence of remediation during that period. It was particularly conscious that the sanctions guidance issued by Social Work England specifically provides that *"Decision makers must also be satisfied that the social worker is willing and capable of complying with conditions"*.
44. The panel then considered the imposition of an order of suspension, noting the sanction guidance provides that *"Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option"*. The panel was conscious that the option of making a removal order was open to it, but that this was the sanction of last resort, available to it only if it considered no other action would adequately protect the public, be in the public interest or be in the interest of the Social Worker.
45. Had Mrs Hawkes shown any interest in fully engaging with the regulatory process, or returning to practise as a social worker, the panel could have given more detailed consideration to extending the suspension order. However, there had been very limited contact since the last review, and the little contact there had been was Mrs Hawkes providing evidence of her poor health and expressing her desire to be removed from the register. The panel was conscious that Social Work England had explored the possibility of Mrs Hawke's voluntary removal from the register in 2020, but that it concluded this was not open to it within the regulations and rules as currently drafted. The panel therefore did not consider that there was anything to be gained by delaying Mrs Hawke's removal from the register any further.
46. The panel therefore regretfully determined that the appropriate and proportionate order in this matter was that of removal.

Right of Appeal:

47. 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.
 - c. 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
49. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019.