

**Social Worker: Shirley-Anna Fidelis
Descartes-Williams**

**Registration Number: SW76430
Fitness to Practise:
Final Hearing**

Date(s) of hearing: 8-12 November 2021

Hearing Venue: Remote hearing

Hearing outcome: Removal Order

Interim order: Interim Suspension Order (18 months)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Ms Descartes-Williams did not attend and was not represented.
3. Social Work England was represented by Ms Gemma Gillet, as instructed by Capsticks LLP.

Adjudicators	Role
Hermione McEwen	Lay Chair Adjudicator
Suzanna Jacoby	Social Worker Adjudicator
Bridget Makins	Lay Adjudicator

Tom Stoker	Hearings Officer
Paige Higgins	Hearing Support Officer
Andrew Lewis	Legal Adviser

Service of Notice:

4. As indicated above, Ms Descartes-Williams did not attend the hearing and was not represented. The panel of adjudicators (the panel) was informed by Ms Gillet that notice of this hearing was sent to Ms Descartes-Williams, on 8 October 2021, in the form prescribed by Rule 15 of the Social Work England Fitness to Practise Rules (the Rules) by first class post to her address on Social Work England's Register (the Register) and by electronic mail to the electronic mail address held by Social Work England. Ms Gillet submitted that the notice of this hearing had been duly served.
5. The panel had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 8 October 2021 and addressed to Ms Descartes-Williams at her address as it appears on the Social Work England Register and to the electronic mail address held by Social Work England.
 - An extract from the Social Work England Register detailing Ms Descartes-Williams' registered address.
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 8 October 2021 the writer sent the notice of hearing by ordinary first-class post and by electronic mail to Ms Descartes-Williams at the addresses referred to above.
 - A copy of the Royal Mail Track and Trace Document indicating "signed for" delivery to Ms Descartes-Williams registered address at 10.19 on 12 October 2021.

6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rules 15, 43, 44, and 45 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 Descartes-Williams in accordance with the Rules, by sending a copy of a notice, which contained all the information required by the Rules, to Ms Descartes-Williams' registered address and the electronic mail address held for her by Social Work England more than 28 calendar days in advance of the hearing.

Proceeding in the absence of the social worker

8. The panel then heard the application of Ms Gillet, on behalf of Social Work England, that the panel should proceed in Ms Descartes-Williams' absence.
9. Ms Gillet drew the panel's attention to the relevant authorities and guidance set out below. She reminded the panel that the discretion to proceed in the absence of Ms Descartes-Williams must be exercised with care and caution and took the panel to each of the considerations set out in the guidance and the authorities.
10. She submitted that notice of this hearing had been duly served and no application for an adjournment had been made by Ms Descartes-Williams. She pointed out a record of a telephone conversation on 12 October 2021 when a representative of Social Work England had tried to engage her in the process. Ms Gillet turned the panel's attention to two particular telephone records where Ms Descartes-Williams had described her health difficulties but did not ask for an adjournment. Ms Gillet highlighted how Ms Descartes-Williams had initially given permission for Social Work England to contact her GP but later withdrew that consent and did not instruct her GP to make her records available. Ms Gillet submitted, that it was clear from the sum of the telephone conversations between Social Work England and Ms Descartes-Williams, that she did not wish to discuss any adjustments that would enable her to take part in the hearing, but simply did not wish to attend.
11. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application to proceed in absence.
12. The panel had regard to Rule 43 which provides "*Where the registered social worker does not attend a hearing and is not represented, the regulator or adjudicators, as the case may be, may proceed to determine the matter, including in circumstances where the registered social worker has previously indicated they wished to attend, if they are satisfied that the registered social worker has been served or all reasonable efforts have been made to serve the registered social worker with notice of the hearing in accordance with these Rules.*"
13. The panel also had regard to the Social Work England guidance, "Service of Notices and Proceeding in the Absence of the Social Worker, last updated 5 December 2019", the decision of the *House of Lords in R v Jones [2002] UKHL 5* and the further guidance given to

panels by the Court of Appeal in **GMC v Adeogba** [2016] EWCA Civ 162. These include the following:

- The discretion to continue in the absence of the social worker should be exercised with great caution and with close regard to the fairness of the proceedings.
- The decision about whether or not to proceed must be guided by Social Work England's primary objective of protecting the public.
- Fairness to the social worker is very important, but so is fairness to Social Work England and the public.
- Whether all reasonable efforts have been taken to serve the social worker with notice.
- The panel should consider the nature of the social worker's absence and in particular whether it was voluntary.
- Whether there is any reason to believe the social worker would attend or make submissions at a subsequent hearing.
- The duty of professionals to engage with their regulator.
- There must be an end to the "adjournment culture".

14. The panel had regard to the direction given by the Court of Appeal in Adeogba (above) *"Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed."*
15. Having read the records of the telephone conversations between Ms Descartes-Williams and Social Work England and in particular the conversations on 12 October 2021 and 3 November 2021, the panel was satisfied that Ms Descartes-Williams knew of the hearing and had decided not to attend. The panel noted that on 12 October 2021 she told the Social Work England representative *"tell these people to leave me alone"*. And on 3 November 2021 she added that *"she did not wish to attend and did not want anything to do with it [the hearing]"* and asked Social Work England to *"please stop contacting her"*.
16. The panel noted that Ms Descartes-Williams referred to her own **[PRIVATE]** health in the telephone conversations with Social Work England's representative. The panel observed that she had neither provided any independent evidence of her ill-health nor assisted Social Work England to obtain such evidence from her GP. The panel also had regard to the fact that Ms Descartes-Williams did not ask for the hearing to be postponed on the grounds of her health, but rather indicated that her ill-health was a reason why she did not see any point in the proceedings.
17. The panel acknowledged that Ms Descartes-Williams is likely to suffer prejudice by not attending the hearing and being able to put her own case before the panel. Nevertheless, the panel found that this situation is as a result of her own decision not to attend, and therefore any disadvantage Ms Descartes-Williams might suffer had to be weighed against the public interest in disposing of this case within a reasonable time. In this regard the panel noted that Social Work England had arranged for a witness to attend to give evidence.

Any further delay would not only inconvenience the witness but was also likely to have a detrimental effect upon her memory of events that were already a considerable time ago.

18. Having regard to what Ms Descartes-Williams had said to the representatives of Social Work England, the panel was satisfied that there were no grounds to believe that an adjournment would secure her attendance at a hearing on a future date.
19. Having regard to all these reasons, the panel was satisfied that Ms Descartes-Williams had waived her right to attend the hearing by voluntarily absenting herself and there was a clear public interest in resolving this matter during the time that had been made available for it. Accordingly, the panel decided to proceed with this hearing in Ms Descartes-Williams' absence.

Allegation(s)

20. The Allegation which Ms Descartes-Williams faces is set out in the Social Work England Statement of Case as follows:

Whilst registered as a Social Worker with the Health and Care Professions Council:

- 1) Whilst caring for Person GA, in a personal capacity, caused her harm in that you assaulted her;
 - a. On or around June to August 2019;
 - b. On or around September 2019;
- 2) The action/s outlined above amount to the statutory ground of misconduct.
- 3) By reason of you(r) misconduct your fitness to practise is impaired

Preliminary matters

Application to hear part of the evidence in private

21. Ms Gillet applied to the panel to hear in private those parts of the evidence that related to the health of Ms Descartes-Williams or person GA.
22. The panel heard the advice of the legal adviser on this matter, which it accepted and followed in this decision.
23. The panel had regard to Rules 37 and 38 which provide:
 37. Subject to rule 38, a hearing under these Rules shall be held in public.
 38. (a) A hearing, or part of a hearing, shall be held in private where the proceedings are considering:

(i) whether to make or review an interim order; or

(ii) the physical or mental health of the registered social worker.

(b) The regulator, or adjudicators as the case may be, may determine to hold part or all of the proceedings in private where they consider that to do so would be appropriate having regard to:

(i) the vulnerability, interests or welfare of any participant in the proceedings;

or

(ii) the public interest including in the effective pursuit of the regulator's over-arching objective.

24. The panel bore in mind that person GA is now deceased. Nevertheless, she is the alleged victim of the assaults set out in paragraph 1 of the Allegation and Social Work England rely upon hearsay evidence of what she said during her lifetime.

25. In those circumstances the panel decided to hold those parts of the evidence relating to the health of Ms Descartes-Williams in private pursuant to Rule 38(a)(ii) of the Rules. It also decided to hear in private, evidence relating to the health of person GA, pursuant to Rule 38(b)(ii), in order to protect her right to a private life and to respect her dignity.

[Application to amend the Allegation](#)

26. Ms Gillet applied to amend paragraph 1) a. to add the words underlined (around June to August 2019). She submitted that this amendment was necessary so that the allegation reflected the evidence, which was that the first alleged assault occurred at the end of July 2019.

27. Ms Gillet submitted that this amendment could be made without any injustice to Ms Descartes-Williams because it was clear from the materials set out in paragraph 8 of the Social Work England Statement of Case that the evidence upon which Social Work England relied indicated that the alleged assault took place at the end of July 2019, albeit that it had been originally recorded in error as occurring on "31 June" (which does not exist).

28. The panel heard the advice of the legal adviser, which it accepted and followed in this decision.

29. The panel bore in mind that there is no rule in the Rules which deals specifically with amendment. Nevertheless, the panel was satisfied that it had the power to allow an amendment of the Allegation under its general power to regulate its proceedings, provided by Rule 32. The panel accepted the advice that it must exercise its discretion having regard to the question of fairness to Ms Descartes-Williams, who was entitled to know in advance of the hearing the case that she had to meet.

30. Having regard to this material, the panel was satisfied that Ms Descartes-Williams had been properly informed of the dates when Social Work England alleged that the first assault took

place and accordingly would suffer no injustice as a result of the proposed amendment. The panel was also satisfied that the amendment was necessary to ensure that the allegation reflected the evidence which Social Work England relied upon and which had been served on Ms Descartes-Williams in advance of the hearing.

31. For these reasons the panel allowed the amendment so that paragraph 1) a. now reads “On or around June - August 2019”.

Application to adduce hearsay evidence

32. Ms Gillet then made an application to the panel to admit 3 sources of hearsay evidence in support of paragraph 1) of the Allegation. The background to that application is as follows.

Background

33. During the period covered by the Allegation, person GA was being cared for in her home by the Ageing and Mental Health Team at Camden and Islington NHS Foundation Trust (the Trust). **[PRIVATE]**. In February 2021, person GA died.
34. However, during 2019, person GA reported that on 2 occasions Ms Descartes-Williams had assaulted her. The first of those assaults is alleged to have occurred in the street at the end of July and to have been witnessed by a neighbour of person GA who recorded it on a video, reported the incident to the Trust and supplied Social Work England with a copy of the video recording they had made at a later date.
35. Subsequently, in mid-September 2019, person GA reported to two of her carers that Ms Descartes-Williams had assaulted her again, this time in her home. She reported that Ms Descartes-Williams had punched her in the lower back when she refused to wash her hair. The carers reported what person GA had told them to the Care Coordinator and made handwritten, signed accounts of what they had been told. The Care Coordinator reported the safeguarding concern to the Ageing and Mental Health Team and the signed accounts were entered into person GA’s care notes. Neither carer is available to give evidence at the hearing.
36. Ms FS was person GA’s primary worker and Occupational Therapist. Both the anonymous report and person GA’s subsequent report to two of her carers were brought to her attention and she conducted an enquiry into each alleged assault. On both occasions she spoke to person GA, who told her that she had been assaulted on the 2 occasions but asked her not to take any further action against Ms Descartes-Williams. Ms FS is available to give evidence of what person GA told her on both occasions in 2019.

Submissions

37. Ms Gillet submitted that the panel should admit the following evidence:
- The anonymous report of person GA’s neighbour who supplied the video recording put before the panel, relating to the first alleged assault;

- The written records made by the two care workers of the reports made by person GA to them, relating to the second alleged assault;
 - The oral evidence of Ms FS of what person GA told her about both alleged assaults.
38. Ms Gillet drew the panel’s attention to Rule 32(b)(vii) which provides that “[The panel] may admit evidence where they consider it fair to do so, whether or not such evidence would be admissible before the courts”.
39. She also drew the panel’s attention to the leading authorities on how to approach the question of whether it was fair to admit hearsay evidence. She referred the panel to the following authorities:
- **Ogbonna v Nursing and Midwifery Council** [2010] EWCA Civ 1216
 - **R (Bonhoeffer) v General Medical Council** [2011] EWHC 1585 (Admin),
 - **Thorneycroft v Nursing and Midwifery Council** [2014] (EWCA 1565 (Admin)
 - **White v Nursing and Midwifery Council and Turner v Nursing and Midwifery Council** [2014] EWCA 520 (Admin),
 - **Karout v Nursing and Midwifery Council** [2019] EWHC 28 (Admin)
40. Ms Gillet submitted that the courts had directed panels to approach the admission of hearsay evidence with care and not to treat it as a routine matter. She also reminded the panel that the issue of fairness falls to be decided when resolving the application to admit the evidence and should not be regarded as a matter going only to the weight to be attached to that evidence. She also cautioned the panel that particular care was needed where the hearsay evidence was the “sole or decisive evidence”, where the evidence of an absent witness had not been recorded in a formal statement and where the source of the evidence was anonymous.
41. Nevertheless, Ms Gillet submitted that it was fair, in each case to admit the evidence, because in all the circumstances, the panel could properly assess the evidence of the witnesses in the context of the evidence as a whole and determine what weight, if any, should be attributed to it.

The panel’s approach

42. The panel has dealt with the authorities in more detail in the body of its decision, set out below.
43. The panel heard the advice of the legal adviser which it followed in the decision set out as follows.
44. The panel bore in mind that in **Ogbonna v Nursing and Midwifery Council** [2010] EWCA Civ 1216 the Court of Appeal rejected the argument that fairness could be addressed by the weight given to the evidence, in the following terms: “*That*

submission appears to me to overlook the point that the criterion of fairness referred to in 31(1) is relevant to whether the statement should be admitted at all: the rule expressly required the decisions as to the exclusion of the hearsay statement to be governed by considerations, inter alia, of fairness.”

45. The panel also bore in mind the principles set out in **R (Bonhoeffer) v General Medical Council** [2011] EWHC 1585 (Admin), which summarised the principles a panel should follow in the following terms:

1.1. The admission of the statement of the absent witness should not be regarded as a routine matter. The FTP rules require the panel to consider the issue of fairness before admitting the evidence.

1.2. The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in balance, but it will not always be a sufficient answer to the objection to admissibility.

1.3. The existence or otherwise of a good and cogent reason for the non-attendance of the witness is an important factor. However, the absence of a good reason does not automatically result in the exclusion of the evidence.

1.4. Where such evidence is the sole or decisive evidence in relation to the charges, the decision whether or not to admit it requires the panel to make a careful assessment, weighing up the competing factors. To do so, the panel must consider the issues in the case, the other evidence which is to be called and the potential consequences of admitting the evidence. The panel must be satisfied either that the evidence is demonstrably reliable, or alternatively there would be some means of testing its reliability.

46. The panel had regard to the direction that the High Court gave in **Karout v Nursing and Midwifery Council** [2019] EWHC 28 (Admin) to exercise particular care in cases where the evidence of an absent witness had not been recorded in a witness statement: *“it was not even a case where reliance was placed on a properly recorded witness statement from any of these four patients. All four of them had declined to engage with the process. The hearsay evidence was the oral response which each of them purportedly made to an enquiry by Ms 3, or in the case of Patient F by Ms 1, over the telephone. There was no audio recording of the conversation. There was no*

precision in the noting of the conversation. Although Ms 3 spoke of a template, there was no "script" produced to show exactly what was to be said in each conversation to ensure consistency in the questions asked. Whatever contemporaneous note may have made of any of the conversations had not apparently been preserved, which was extremely poor practice."

47. The panel had regard to the need for particular caution in the case of an anonymous witness (**White v Nursing and Midwifery Council** and **Turner v Nursing and Midwifery Council** [2014] EWCA 520 (Admin).)

48. The panel also had regard to the questions that the Court set out in **Thorneycroft v Nursing and Midwifery Council** [2014] (EWCA 1565 (Admin):

(1) whether the statements were the sole or decisive evidence in support of the relevant allegations,

(2) the nature and extent of the appellant's challenge to the contents of the statements,

(3) whether there was any suggestion that the witnesses had reasons to fabricate their allegations,

(4) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career,

(5) whether there was a good reason for the non-attendance of the witnesses,

(6) whether the Respondent had taken reasonable steps to secure their attendance, and

(7) whether the registrant had prior notice that the witness statements were to be read.

The evidence of Ms FS

49. The panel considered first whether it should admit the evidence of Ms FS who it was proposed would attend to give evidence of what person GA had told her about the 2 alleged assaults.

50. The panel bore in mind that Ms FS had spoken to person GA in a professional capacity, as her primary worker, in order to investigate safeguarding issues. She has not produced contemporaneous handwritten notes of the conversations but made notes in the care records within a short time of her conversations. The panel satisfied itself that the material in her witness statement to Social Work England is consistent with those entries. The panel noted that Ms FS had observed person GA's demeanour when she told her of the assaults, which was consistent with the allegations she made.

51. With regard to the reporting of the first assault, the panel observed that Ms FS had visited person GA on 2 occasions and heard the same allegation on both occasions. Looking at the content of the allegations, the panel noted that person GA is recorded as emphasising that Ms Descartes-Williams had not assaulted her on any other occasions and had apologised to her since. Person GA was also clear that she did not want any action taken against Ms Descartes-Williams, beyond Ms FS reporting it to her Team.
52. Because the allegations made to Ms FS were not recorded in a formal statement, rather in care notes, the panel looked closely at both the allegations themselves and the circumstances in which they were recorded by Ms FS.
53. With regard to the allegation of the first assault, the panel found that the repetition of the allegation several days apart and the emphasis person GA placed upon Ms Descartes-Williams' apology and not wanting action taken against her, pointed strongly towards them being reliable accounts. The panel also found that the account of the first allegation was supported to a significant extent by the video recordings that the panel has seen.
54. The panel had regard to the evidence that person GA **[PRIVATE]**.
55. The panel also took into account that there was a letter in the bundle of documents which purported to be a retraction written by person GA. Having regard to the contents of that document the panel was satisfied that it did not contain material which significantly undermined the account recorded as having been given by person GA because, among other things it did not explain why the allegations were made in the first place and later withdrawn, and focused only on the damage that such allegations could do to Ms Descartes-Williams.
56. With regard to the recording of the allegations, the panel noted that no formal statement had been taken from person GA, but records were made promptly by Ms FS in the care notes. The panel also found that the way in which Ms FS had recorded person GA's account, detailing how surprising the assaults were, how Ms Descartes-Williams had apologised and how she did not want any action taken, were entirely consistent with an honest and balanced recording of what person GA had said and inconsistent with Ms FS being hostile to Ms Descartes-Williams.
57. The panel found that the account person GA gave to Ms FS of the first assault was not the sole evidence because the account of the first assault was supported by the video evidence. Nevertheless, it was decisive evidence, and the panel examined the reliability of the account given by person GA and the recording of it by Ms FS and found both the account and the recording to be reliable for the reasons set out above.
58. The panel approached the account of the second alleged assault with care. The panel was satisfied that person GA's account had been properly recorded in the care notes and the second allegation to Ms FS was also part of a wider picture of

allegations made by person GA to her carers, which gave the panel confidence that the accounts were reliable.

59. The panel noted that Ms Descartes-Williams denied any assaults in her initial response to Social Work England and said that Ms FS was motivated by jealousy. However, there is no evidence of this and the panel is satisfied that the way in which person GA's instructions are recorded by Ms FS is not consistent with that.
60. The panel is aware that the Allegation Ms Descartes-Williams faces is serious but the evidence of person GA cannot be adduced in any other way and the panel is satisfied that it is fair to admit it and will ensure there is no unfairness to Ms Descartes-Williams by treating it with appropriate care and questioning Ms FS on it in due course.

The records made by the 2 carers known as AG and EG

61. Ms FS was alerted to the second allegation of assault by a Care Coordinator who relied on reports, supported by handwritten statements, made by 2 carers who recorded that person GA reported the second assault to them at different times of day on what appears from the records to be around 17 September 2019.
62. A carer known in these proceedings as AG reported that when she visited person GA in the evening of 17 September 2019, she was told by person GA that her daughter treated her very badly. Person GA then described how Ms Descartes-Williams had pulled her to the bathroom to wash her hair, when she didn't feel like having her hair washed, shouted abusive language at her and punched her in the lower back. AG asked person GA if she was hurting at the time, she assured her she wasn't. AG states that she looked at person GA's back on 18 September and it appeared swollen, and she showed this to the other carer she was working with and they both agreed it was swollen.
63. A carer known in these proceedings as EG reported that when she visited person GA in the morning she was crying and, when asked why, revealed that Ms Descartes-Williams had forced her to wash her hair, pushed her into the bathroom and punched her twice in her back.
64. These concerns were recorded by the Care Coordinator, brought to the attention of Ms FS as a safeguarding concern and recorded in the care notes, as set out above.
65. The panel has seen a bundle of telephone attendance notes, letters and emails indicating that Social Work England has tried to secure the attendance of the 2 carers but been unsuccessful. It is apparent from the documents that the carer AG has refused to engage with Social Work England at all. Carer EG has spoken to Social Work England but explained that she has no recollection of the events, beyond the record she has made.
66. The panel found that the account of person GA is the decisive evidence of the second alleged assault supported by the observation of injury by carer AG which was

consistent with the allegation that she made. The panel noted that the allegation was made not to one carer but 2 and both made and signed what appear on the face of it to be contemporaneous accounts and shared their concerns with the Care Coordinator. The panel notes that this allegation was further investigated by Ms FS on a home visit to person GA in the way set out above.

67. In those circumstances, the panel found that the evidence in the carers' statements form part of a wider pattern of complaint by person GA. The panel recognised that it would be preferable to hear from the carers to whom person GA had made the complaint and to question them about what they had heard and seen. Nevertheless, the statements made by both carers are clearly focused on safeguarding issues and the result of more than a "casual conversation".
68. The panel accepts that Social Work England has made reasonable efforts to secure the attendance of the 2 carers although it is not clear why neither carer is prepared to attend to give evidence. Accordingly, the panel asked itself whether it could admit the statements that were made at the time of the complaint that person GA made.
69. The panel asked itself the same questions that it asked in respect of the evidence of Ms FS and concluded that the accounts in the 2 different carers' signed statements, made contemporaneously, appeared sufficiently reliable for it to be right for the panel to admit them in evidence. The panel was again satisfied that in all the circumstances it could ensure the fairness of the proceedings by reminding itself in due course of the appropriate weight to be attached to evidence which has not been tested in cross examination.

[The evidence of the anonymous caller known as AC who produced a video recording](#)

70. The panel turned to the evidence of the anonymous caller known as AC in these proceedings. The panel found that this evidence fell into a different category to the other evidence because the source was not identifiable, and the person had not made official records in the course of their duties in the way that the other witnesses had.
71. The panel reminded itself that in most circumstances it will be unfair to admit anonymous evidence because it is effectively impossible to test it.
72. Nevertheless, the panel found that the evidence of AC in this case was effectively identifying the time and place of a video recording which was on the face of it the most reliable and objective evidence.
73. The panel satisfied itself that the video recording was essentially consistent with the account given by person GA to Ms FS of the first allegation. The panel also noted that Ms Descartes-Williams has accepted in conversation with Ms FS that she and her brother have taken person GA by car to a hospital appointment and there is evidence that the car in the video recording resembles the car Ms Descartes-Williams drove at that time.

74. In those exceptional circumstances, applying the same tests to this evidence as to the evidence set out above, the panel is satisfied that it is fair to admit this evidence and it will ensure fairness in the proceedings by ensuring that it does not place undue weight on any apparent observations of the anonymous caller AC that are not borne out by the video recording.
75. Finally, the panel looked at all the evidence upon which Social Work England seeks to rely and asked itself whether, taken as a whole, admitting the evidence would make the hearing unfair to Ms Descartes-Williams. The panel was satisfied that it would not, both for the reasons set out above in respect of each part of the evidence, but also because taken as a whole the hearsay evidence from 3 independent sources is mutually supportive in a way that reassures the panel that the evidence is demonstrably reliable and no unfairness will be done by admitting it.

Summary of Evidence

76. The panel then considered each aspect of the evidence before it in turn.

The accounts given by person GA

77. The panel noted that the account of person GA, since deceased, was put before the panel by way of the three accounts that she gave to Ms FS and the account she gave to her two carers EG and AG, which they recorded in handwritten statements and person GA's care notes.
78. The panel reminded itself of the main points of those accounts.
79. In respect of the first alleged assault Ms FS recorded that person GA said to her on 6 August 2019: *"She went to Goodinge Health Centre on Thursday 01/08 at around midday, accompanied by eldest son [PRIVATE] and Fifi. [Person GA] used wheelchair to access Fifi's car".* Person GA reported *"I cannot keep standing and my knees buckle"*.
80. When asked how it went, she reported *"Fifi hit me on my back! She beat me and hurt me! I tried to stand up, then I go down! "...Fifi kept on saying go in, go in, pushed me inside the car, then hit me again and again!"* Person GA pointed to where she was hit on her back, and pointed at person GA's lower back, which is near tailbone. [Person GA] stated *"I find it strange, she's been hitting me and I'm her Mum."*
81. Person GA repeated the allegation to Ms FS when she visited her at home on 13 August 2019 and repeated that she was surprised that this had happened.
82. In respect of the second alleged assault, it is recorded by Ms FS that on 25 September 2019, person GA reported to her that *"she was hit on her lower back by her daughter after refusing to have a shower, but doesn't want to report it further."*

Said Fifi personally apologised to her the following day, was remorseful and admitted her fault.”

83. The panel was mindful that it had not had an opportunity to see or hear person GA give her account or see her questioned about it. Nevertheless, it was satisfied that her account was reliable because it is consistent with the other evidence, and in particular a video recording, set out below.
84. Looking at the record of the accounts that person GA gave, the panel was reassured that she did not appear to have any hostility towards Ms Descartes-Williams and was at pains to point out that the assault in July 2019 was the first time that Ms Descartes-Williams had assaulted her. She also gave accounts of Ms Descartes-Williams’ remorse and her surprise at the first assault.
85. The panel bore in mind the evidence that person GA had a [PRIVATE] but was satisfied that there was no evidence that this affected her accounts because in each case she demonstrated an awareness of the possible consequences of making a complaint and acted upon that understanding by saying she wished to prevent the matter being taken beyond the Ageing and Mental Health Team.
86. The panel also had regard to the care notes which record a number of examples of person GA making decisions about her care in a way which indicated that she had good understanding of her situation. [PRIVATE].
87. The panel compared the account which person GA is recorded as having given about the first alleged assault and found that the account is consistent with the video recording and for that reason in particular concluded that person GA was a reliable witness who gave an accurate account of what occurred.

The video recordings

88. The panel then had regard to the undated video recordings which were supplied to Social Work England by the anonymous caller referred to above.
89. The panel deals below with the identification of the people shown in the video recordings. The panel deals at this stage with what can be seen and heard on the video recordings. The panel watched both recordings a number of times. The panel found that it could see three individuals, later identified as person GA, her son and Ms Descartes-Williams at the rear door of a black car. It saw person GA being pushed into the car by her son while Ms Descartes-Williams shouted “*push her in there. Yes you can.*” It then saw Ms Descartes-Williams strike person GA several times on the back, following which, person GA screamed loudly.

The evidence of Ms FS (person GA's primary worker)

90. Ms FS gave evidence to the panel of the reports made to her about the alleged assaults by person GA and recorded in the care notes and her statement to Social Work England. She also assisted the panel by watching and answering questions about the video recordings referred to above, which she had not seen before the hearing.
91. Ms FS identified the location of the recordings as being outside the building where person GA lived because she was able to recognise the entrance to the building. With regard to the people, after considering the video recordings for some time, she told the panel that she could not identify the faces of the people in the recording. However, she was able to recognise person GA's voice and also the voice of Ms Descartes-Williams.
92. The panel found that Ms FS was a careful and considered witness who referred to the care notes when describing her conversations with person GA and was cautious about what she could and could not identify from the video recordings. The panel saw the care notes made by Ms FS after her conversations with person GA. It saw that the date and times of the visits were recorded on the notes and satisfied that the notes were made within a reasonable time after the meetings between Ms FS and person GA. In respect of the meetings at which person GA reported the first alleged assault, they were made on the same day. In respect of the meeting in which the second alleged assault was reported, the notes were made within 2 days.
93. The panel also noted the careful and conscientious way in which Ms FS noted at the time her safeguarding duties and balanced those against her wish to respect the wishes of person GA not to take the safeguarding issues further. In light of this, the panel accepted her evidence that she had no enmity towards Ms Descartes-Williams.
94. In those circumstances, the panel accepted Ms FS' evidence regarding the identification of the people in the video and found that she had made an accurate recording both in the care notes and her statement of the reports made to her by person GA.
95. Ms FS also told the panel that person GA, to her knowledge, had not made complaints in the past about anyone involved in her care. She said that she had regarded her as having capacity to make decisions about her care. **[PRIVATE]**. The panel accepted this evidence.
96. The panel also accepted her evidence that she attended person GA's home on 25 September 2019 to investigate the allegation of a second assault which person GA

had reported to her carers and person GA gave her the account set out above “spontaneously”, without her reminding her at all of what she had said to her carers.

The account of the anonymous caller

97. The panel then considered the report of the account given by the anonymous caller AC who, on 2 August 2019, alerted the Trust to the first alleged assault and ultimately supplied a copy of the video recordings to Social Work England, although they insisted on remaining anonymous. The panel approached their evidence with caution because the panel knew nothing of this witness, including their vantage point or relationship to Ms Descartes-Williams or person GA.
98. Having looked at the evidence as a whole, the panel formed the view that the only matter with which the anonymous caller AC assisted the panel was the production of the video recordings.
99. The panel looked at the way the caller AC had conducted themselves in dealings with Social Work England. It accepted that a witness may well wish to remain anonymous out of fear. It bore in mind that the witness had not used the video recording in an inappropriate way, such as by posting it on social media, but had preserved it for use by the regulator, now Social Work England. In those circumstances, the panel was satisfied that there was no reason to doubt the provenance of the video recording and the evidence that it was made on or about 31 July 2019.

The reports of the care workers EG and AG

100. The panel considered the written evidence from two care workers known as EG and AG in these proceedings. The panel reminded itself that EG made a hand written and signed statement dated 19 September 2019 in which she recorded that when she visited person GA in the morning she was crying and when asked why said that her daughter had assaulted her when she did not wash her hair and said “*if you don't wash your hair you can't go to the day centre and then pushed her into the bathroom and punched her twice in the back.*”
101. The panel also saw that AG had signed a statement saying that that she had seen person GA at home in the evening of 17 September and person GA had repeated that her daughter had pushed her into the bathroom and “*punched her in the lower back*”. She also records that she had looked at person GA’s back and observed swellings which she showed to another carer. The panel also saw the entries in the care notes, which were consistent with the statements the panel has referred to.
102. The panel had regard to the fact that the allegations were reported by two different carers and had been recorded and reported in an entirely appropriate way. The panel could find no reason for the carers to make false entries and noted

that the entries were consistent with one another and also consistent with what was later told by person GA to Ms FS.

103. For these reasons the panel was satisfied that the statements made were an accurate reflection of what person GA had said to EG and AG.

Material provided by or on behalf of Ms Descartes-Williams

104. Ms Descartes-Williams did not attend the hearing and accordingly do not give evidence. Nevertheless, the panel had regard to the material provided by her in the bundle before the panel and noted that Ms Descartes-Williams has denied the allegations of assault in strong terms:
- It also had regard to her assertion in her email dated 22 April 2020, in which she said of Ms FS " *I believe that she made these spurious allegations against me out of jealousy and her own agenda re looking into my Personal Budget income . I consulted with the Income Team and they said that [FS] has no business asking me about my income. She also has unauthorised access to [Person GA's] flat.*"
 - In an email dated 13 August 2020 she said, "*As I said to you before, I did not assault GA. I am her Care Manager and daughter- I would never do this to her or any vulnerable person.*"
105. The panel bore in mind that Social Work England has stated that Ms Descartes-Williams is a person of good character and approached her written assertions with care. Nonetheless, the panel reject her assertions because they are contradicted by the video evidence the panel has seen and the evidence of Ms FS which the panel has observed and assessed to be reliable, as set out above.
106. The panel has also seen two short testimonial letters reminding the panel that Ms Descartes-Williams is apparently well thought of by people who have known her for a long time and say that it would be out of character for her to assault her mother. Neither document enables the panel to identify the writers of these documents or the capacity in which they have known or observed Ms Descartes-Williams. In light of these factors and the evidence referred to above, the panel could not rely upon these documents when reaching its decision on facts.
107. The panel also saw a handwritten letter, dated 29 June 2020, apparently from Person GA. The letter says Person GA does not wish to pursue the allegations of assault because "*she has never hit me*" **[PRIVATE]**.

108. The letter refers to person GA's **[PRIVATE]** in a way which is inconsistent with the evidence of Ms FS **[PRIVATE]**. It is also focused on the effects proceedings would have on Ms Descartes-Williams rather than the allegations themselves.
109. In those circumstances, the panel found that the letter was at least heavily influenced by Ms Descartes-Williams and did nothing to undermine its confidence in the accounts given by person GA and supported by the video evidence to which the panel has referred.

Submissions

110. The panel heard the submissions of Ms Gillet, who took the panel through the evidence and drew the panel's attention to the salient features of the evidence, including the passages in the video recordings which she submitted showed the assault alleged at paragraph 1) a. She also drew the panel's attention to the consistency with which person GA had reported the second alleged assault to her carers and then Ms FS.
111. She reminded the panel of the burden and standard of proof and the way in which they could use the evidence relating to the assault alleged under paragraph 1) a. to assist with the second assault alleged under paragraph 1) b.
112. The panel heard the advice of the legal adviser, which it accepted and followed in this decision.

The panel's approach

113. The panel bore in mind that, at this stage, the burden of proving each paragraph of the Allegation rests upon Social Work England and Ms Descartes-Williams does not have to prove anything. It reminded itself that the standard of proof is the civil standard, that is to say the balance of probabilities.
114. The panel accepted the advice of the legal adviser that it must decide what weight to attach to the evidence it has heard and that when assessing the reliability of a witness who has attended to give oral evidence they should test that witness' evidence by reference to all the surrounding evidence and documentation and not place undue weight upon the demeanour of that witness.
115. The panel also accepted the advice that if it found proved the allegation of assault charged at paragraph 1) a., it could ask whether that showed that Ms Descartes-Williams had a propensity to act in an aggressive manner towards her mother. If it was satisfied that it did, it could use that evidence when considering paragraph 1) b.
116. The panel reminded itself that Ms Descartes-Williams is a person of good character, against whom there have not been any adverse findings by a court or regulator.

The panel bore in mind that although Ms Descartes-Williams did not give evidence, her good character should be taken into account when deciding what weight to attach to her written submissions to Social Work England and when deciding whether it was more likely than not that she had committed the alleged assaults.

Finding and reasons on facts

117. The panel then considered each paragraph of the Allegation in turn.

Whilst registered as a Social Worker with the Health and Care Professions Council:

Whilst caring for Person GA, in a personal capacity, caused her harm in that you assaulted her;

- *On or around June to August 2019;*
Found proved.

118. The panel found first that there was no dispute that Ms Descartes-Williams was caring for person GA in a personal capacity in 2019. Indeed, in her written response to Social Work England Ms Descartes-Williams wrote of herself, that she was person GA's "*Care Manager and daughter*".

119. The panel found that the video recording and the account given by person GA, taken together, provided clear evidence of the alleged assault. In the video recording the panel saw the apparently angry manner in which Ms Descartes-Williams first shouted and then pushed and subsequently hit person GA on the back as she was moving into a car. The panel heard person GA scream as the blows landed upon her.

120. The panel considered Ms Descartes-Williams' written assertions, referred to above, that she had not assaulted person GA and that Ms FS had made up allegations because she was jealous. Nevertheless, having considered the video evidence and assessed the evidence of Ms FS, the panel rejected those assertions.

121. For those reasons, the panel found this paragraph of the allegations proved.

1)....in that you assaulted her;

.....

b. On or around September 2019;
Found Proved.

122. The panel bore in mind that on this occasion person GA's account was not directly supported by video evidence. Nevertheless, the panel found that the evidence supporting this paragraph of the Allegation was reliable for the following reasons:

- i. the allegation of assault was repeated by person GA to two carers and subsequently repeated spontaneously to Ms FS;
 - ii. the accounts given by person GA are all consistent with one another;
 - iii. the contents of the allegation demonstrate that person GA understood that she was making a second allegation and understood the implications of that. She gave a compelling account of Ms Descartes- Williams displaying remorse and of having discussed the incident with her son.
123. The panel had regard to the apparent retraction statement from person GA but found that it was wholly discredited by the video evidence which showed that the first assault did take place, contrary to what is written in that retraction statement.
124. The panel also found that the video evidence demonstrated that person GA was capable of giving an accurate and detailed account of what had happened to her.
125. The panel further found that the video evidence demonstrated that Ms Descartes-Williams was not correct when she said that she would never assault her mother. On the contrary, the video evidence demonstrated that she was capable of losing her temper and assaulting her mother in a particularly aggressive manner. Accordingly, the panel found that this evidence supported the account given on three occasions by person GA that she had been assaulted a second time.
126. For these reasons, the panel found this paragraph of the allegation proved.
127. Having found proved the facts set out above, the panel considered whether those facts amounted to misconduct and, if so, whether Ms Descartes-Williams' fitness to practise as a social worker is impaired by reason of misconduct.

Submissions

128. The panel heard the submissions of Ms Gillet, who reminded the panel of the facts found proved and submitted first that the facts found proved amounted to serious misconduct.
129. Ms Gillet submitted that, although misconduct is not defined in statute, the High Court has laid down guidance in a number of cases, which the panel has set out within its decision. She also invited the panel to apply the test of "*deplorable*", which she submitted was satisfied by both matters found proved.
130. She reminded the panel that the first matter found proved was an assault on a vulnerable person in public and the second was an assault in what should have been the safety of her own home.

131. She submitted that, although the assaults found proved were committed outside of Ms Descartes-Williams' professional practice, the conduct was likely to undermine public confidence in the social work profession. She submitted that this amounted to a breach of paragraph 9.1 of the HCPC Standards of conduct, performance and ethics 2016, to which Ms Descartes-Williams was subject in 2019 (prior to the transfer of social workers' regulation to Social Work England in December 2019) which provides that *"You must make sure that your conduct justifies the public's trust in you and your profession"*.
132. She also submitted that the panel was entitled to have regard to paragraphs 6.1 and 6.2 of the HCPC standards of conduct, performance and ethics:
- 6.1 - You must take all reasonable steps to reduce the risk of harm to service users, carer, and colleagues as far as possible.*
- 6.2 - You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.*
133. She submitted that this was so because Ms Descartes- Williams was a registered social worker and the registered carer of person GA, who was herself a service user, albeit of another service from the one in which Ms Descartes-Williams worked.
134. She further submitted that Ms Descartes-Williams' fitness to practise was impaired as a result of that misconduct.
135. Ms Gillet reminded the panel that they were concerned with whether Ms Descartes-Williams' fitness to practise is impaired now. However, the panel had to consider this question in the light of what had happened in the past including the misconduct found proved and what had occurred both before and since.
136. She submitted that the risk that Ms Descartes-Williams would repeat her misconduct was high because she had displayed no insight into the seriousness of the misconduct alleged against her and denied any wrongdoing in the face of clear evidence. She also submitted that a finding of impairment was necessary in the wider public interest, to maintain public confidence in the profession and uphold proper standards of conduct.
137. Finally, she submitted that such evidence as there was that Ms Descartes-Williams intended to retire from social work was not a relevant consideration when deciding her fitness to practise following a decision of the Court of Appeal in **GOC v Clarke [2018] EWCA Civ 1463**.
138. The panel heard the advice of the legal adviser which it accepted and has followed in the decision set out in the panel's approach below.

The panel's approach

139. The panel bore in mind that, before it can consider the issue of impairment, it must first be satisfied that the facts found proved amount to misconduct that is serious.
140. The panel had regard to **Roylance v General Medical Council (No.2) [2000] 1 AC 311** in which it was established that: *"Misconduct' is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances."*
141. The panel noted that a number of cases had sought to guide panels by reference to the following tests: *"reprehensible, morally culpable or disgraceful, completely unacceptable"*.
142. It also had regard to the decision of the High Court in **Solicitors Regulation Authority v. Day and others [2018] EWHC 2726 (Admin)** which gave the following guidance to panels: *"We do not, we emphasise, say that there is a set standard of seriousness or culpability for the purposes of assessing breaches of the core principles in tribunal proceedings. It is a question of fact and degree in each case. Whether the default in question is sufficiently serious and culpable thus will depend on the particular core principle in issue and on the evaluation of the circumstances of the particular case as applied to that principle."*
143. The panel accepted the advice that, although guidance has been provided by the courts, it is a matter for the judgment of the panel, having regard to all the circumstances of the case whether the facts found amount to serious misconduct.
144. Turning to the question of whether Ms Descartes-Williams' fitness to practise as a social worker is impaired, the panel bore in mind that a finding of impairment is separate from the finding of misconduct and that a finding of misconduct does not automatically mean that a practitioner's fitness to practise is impaired.
145. The panel reminded itself that over two years have elapsed since Ms Descartes-Williams' misconduct and there is no evidence that Ms Descartes-Williams has committed similar misconduct either before or since the matters proved.
146. The Panel applied the approach endorsed by the High Court in **CHRE v NMC and P Grant [2011] EWHC 927 (Admin)**: *"Do our findings of fact in respect of the (registrant's) misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*

a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b) has in the past brought and/or is liable in the future to bring theprofession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

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

147. The panel considered first whether there remained a risk of repetition of Ms Descartes-Williams' misconduct. On this issue, the panel noted in particular the observations of Silber J in **Cohen v GMC** [2008] EWHC 581 (Admin):

"There must always be situations in which a Panel can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practice has not been impaired. Indeed, the Rules have been drafted on the basis that once the Panel has found misconduct, it has to consider as a separate and discreet exercise whether the practitioner's fitness to practice has been impaired."

148. The panel also had regard to the passage from **Cohen v GMC** (above) and cited by Cox J in the Grant case, which reminds panels that there may need to be a finding of impairment in the public interest, even if the misconduct can be characterised as an isolated incident:

"Any approach to the issue of whether a doctor's fitness to practise should be regarded as 'impaired' must take account of 'the need to protect the individual patient, and the collective need to maintain confidence [in the] profession as well as declaring and upholding proper standards of conduct and behaviour of the public in their doctors and that public interest includes amongst other things the protection of patients, maintenance of public confidence in the (profession)'"(sic)."

149. The panel also had regard to the direction given to panels by the High Court that they must have regard to all three aspects of the overarching objective, to protect the public, when reaching a decision. Most recently in **GMC v Chaudhary** [2017] EWHC 2561 (Admin)- that remediation is not the end of the matter - that throughout its deliberations, the tribunal must (and will) have regard to all three aspects of the overarching objective.

150. The panel had regard to the following passage in the judgment, which the legal adviser drew to the panel's attention: "53. *The whole of the public interest in this regulatory context is vital. I am not to be understood as saying that elements two and three are more important than the first element (which is public safety) and the position of the doctor, but everything must properly be placed in the balance.*" (Justice Jay)

151. It reminded itself that the overarching objective involves acting

a) to protect, promote and maintain the health, safety and wellbeing of the public

- b) to maintain public confidence in the profession
- c) to promote and maintain proper professional standards and conduct for members of the profession."

152. The panel accepted Ms Gillet that such evidence as there was that Ms Descartes-Williams intended to retire from social work was not a relevant consideration when deciding upon her fitness to practise following the decision of the Court of Appeal in **GOC v Clarke [2018] EWCA Civ 1463**.

The panel's decision on misconduct and impairment

- 153. The panel found that the facts proved in both cases amounted to serious assaults on a vulnerable person who was entitled to be able to trust Ms Descartes-Williams.
- 154. The first assault was carried out in public and witnessed by at least two members of the public, one of whom made a video recording. The panel found that this was conduct which any right thinking member of the public or the profession would find shocking and disgraceful. The second assault was carried out in what should have been the safety of person GA's home. The panel was satisfied that any right thinking member of the public or the profession would form a similar view of that assault.
- 155. The panel found that although Ms Descartes-Williams was a registered social worker at the time, the conduct found proved occurred during her personal relationship with her own mother and not during the course of carrying out her profession as a social worker. Nevertheless, the panel was satisfied that her conduct engaged a core standard, paragraph 9.1, of the HCPC Standards of conduct, performance and ethics, which provides that *"You must make sure that your conduct justifies the public's trust in you and your profession"*.
- 156. In the light of the panel's finding that the conduct fell within Ms Descartes-Williams' private life, it did not need to consider the application of the other provisions of the Standards which were concerned with professional conduct at work.
- 157. Nevertheless, for the reasons set out above the panel was satisfied that the conduct found proved was deplorable and likely to undermine public confidence in the profession. Accordingly, it found that both matters found proved amounted to misconduct which was serious.
- 158. Turning to the question of impairment, the panel bore in mind that a finding of impairment is separate from the finding of misconduct and that a finding of

misconduct does not automatically mean that the practitioner's fitness to practise is impaired.

159. The panel reminded itself that it is concerned with whether Ms Descartes-Williams' fitness to practise as a social worker is currently impaired and that over two years have elapsed since Ms Descartes-Williams' misconduct and there is no evidence that Ms Descartes-Williams has committed similar misconduct either before or since the matters proved.
160. The panel asked itself whether the four tests set out in the case of Grant, set out above, were satisfied in this case.
 - It found that although Ms Descartes-Williams had not put service users at risk in the past, the very nature of her misconduct in assaulting a vulnerable person who was entitled to expect care and protection from her, led the panel to conclude that she was liable to put service users at risk in the future in particular in circumstances where she had demonstrated no insight into or even remorse for her misconduct. In reaching this conclusion the panel reminded itself of the sustained anger and aggression it had witnessed on the video recordings and also that Ms Descartes-Williams had repeated her misconduct within a relatively short period of time.
 - The panel found that by committing two assaults against a vulnerable person, the first in public and the second in her own home, Ms Descartes-Williams had brought the profession of social workers into disrepute and was liable to do so in the future, in particular because she had demonstrated no insight or remediation of her misconduct.
 - The panel found that by assaulting a vulnerable person who was entitled to trust her, Ms Descartes-Williams had breached a fundamental tenet of the profession of social work, to protect vulnerable people, and was liable to do so in the future for the reasons set out above.
161. The panel considered carefully whether Ms Descartes-Williams' misconduct was remediable. In light of the evidence it had seen, and in particular the repetition of the misconduct, the panel had grave doubts. In any event the panel found Ms Descartes-Williams had displayed no understanding of the seriousness of her misconduct and there was no evidence that she had taken any steps to prevent a loss of self-control or aggression leading to violence, in the future.
162. The panel was particularly concerned about the substance of her representations in emails to Social Work England. The panel found that these representations displayed a fundamental failure to understand the importance of the concerns raised against her, which taken together with the other evidence of lack of insight, demonstrated that the risk of repetition of the harmful behaviour is high.

163. The panel then had regard to its duty to the wider public interest within the overarching objective set out above. The panel has already found that the misconduct of Ms Descartes-Williams was likely to bring the profession into disrepute. Accordingly, it found that a finding of impairment was necessary to maintain public confidence in the profession to demonstrate that it takes seriously the misconduct found in this case.
164. Accordingly, the panel finds that Ms Descartes- Williams’ Fitness to practise is impaired under all three limbs of the overarching objective.

The panel’s decision on sanction

165. Having found Ms Descartes-Williams’ fitness to practise impaired, for the reasons set out above, the panel considered, what, if any sanction it should impose on Ms Descartes-Williams.

Submissions

166. The panel heard submissions from Ms Gillet on the issue of sanction. She reminded the panel that the purpose of a sanction was not to punish a social worker but to protect the public, including the wider public interest in maintaining confidence in the profession and upholding standards of conduct for the profession.
167. She drew the panel’s attention to the relevant passages of the Sanctions guidance, to which the panel refers below, and submitted that the appropriate sanction was a removal order.
168. Ms Gillet submitted that the panel should identify the aggravating and mitigating features in this case. With regard to mitigating features, she accepted that Ms Descartes-Williams’ misconduct was committed outside a work context, that she may well have been under significant personal pressure and there was no evidence of misconduct either before or since the misconduct found in this case.
169. Turning to aggravating features, she reminded the panel that there was evidence of actual harm to person GA, the misconduct had been repeated and the panel had identified a high risk of repetition. She identified what she described as “*a lack of meaningful engagement*” and a “*dismissive and angry attitude*” to the investigation. She reminded the panel that Ms Descartes-Williams had displayed neither insight nor remorse.

170. Ms Gillet reminded the panel that it should have regard to the principle of proportionality, balancing the rights of the social worker against the need to protect the public. She submitted that the panel should examine each available sanction in turn, starting with the least severe, and stop when it arrived at a sanction which achieved the purpose of protecting the public.
171. She submitted that there were no exceptional circumstances which would justify taking no action and submitted that neither taking no action or issuing advice or a warning were sufficiently restrictive to uphold the wider public interest.
172. Ms Gillet submitted that there were no appropriate or workable conditions that could be imposed in this case and, in any event, the panel could have no confidence that Ms Descartes-Williams would comply with conditions in light of her lack of engagement.
173. She submitted that a suspension order would not maintain public confidence in the profession.
174. The panel has also accepted the advice of the legal adviser which it has followed in this decision. It also had regard to Social Work England's Sanctions guidance.

The panel's approach

175. The panel is aware that the purpose of sanction is not to be punitive but to protect the public and the wider public interest, which includes promoting and maintaining public confidence in the profession and promoting and maintaining proper standards for the profession.
176. The panel also bore in mind the principle of proportionality and balanced the panel's duty to protect the public against the rights of Ms Descartes-Williams.

The panel's decision

177. The panel identified the following aggravating factors:
- *there was evidence of actual harm to person GA, who was very vulnerable;*
 - *the misconduct had been repeated on two occasions;*
 - *they concluded there was a high risk of repetition;*
 - *Ms Descartes-Williams had shown neither insight nor remorse;*

- *there had been no meaningful engagement from Ms Descartes- Williams and her reaction to communication from Social Work England had been dismissive.*

178. The panel also had regard to the mitigating factors. It accepted that Ms Descartes-Williams may well have been under considerable personal pressure but found that the only mitigating feature was that there had been no previous disciplinary matters recorded against her, before or after those recorded in this case.
179. Before turning to the available sanctions, the panel considered the issues of Ms Descartes-Williams' health, raised by her in telephone exchanges with Social Work England. **[PRIVATE]**.
180. The panel notes that Social Work England tried to obtain evidence from her GP but Ms Descartes- Williams did not give permission for the release of her records. The panel also noted that Social Work England tried to engage Ms Descartes-Williams regarding the question of what steps could be taken to enable her to take part in the hearing, but she declined to engage in that discussion.
181. In these circumstances, the panel has approached this information about Ms Descartes- Williams' health with considerable caution. In any event, the panel concluded that its duty to protect the public had to take precedence over any concerns for Ms Descartes- Williams' wellbeing.
182. The panel considered the sanctions available to it in ascending order, starting with the least restrictive.
183. The panel first considered whether it was appropriate to take no further action. The panel had regard to paragraph 72 of the Sanctions guidance and was satisfied that there were no exceptional circumstances which would justify taking this course.
184. The panel then considered whether it should issue advice or a warning to Ms Descartes-Williams. It had regard to paragraphs 75 to 82 of the Sanctions guidance and found that neither issuing advice or a warning was sufficient to protect the public from the identified risk of repetition nor to uphold the wider public interest.
185. The panel then considered whether it could protect the public by the imposition of a conditions of practice order. The panel had regard to paragraph 84 of the Sanctions guidance which provides:

84. Conditions are most commonly applied in cases of lack of competence or ill health. They're less likely to be appropriate in cases of character, attitudinal or behavioural failings, or in cases raising wider public interest issues. For example, conditions would almost certainly be insufficient in cases of sexual misconduct,

violence, dishonesty, abuses of trust and discrimination involving a protected characteristic.

186. Having regard to its findings at the first two stages of this hearing and in particular the risk of repetition which it has identified, the panel found that there were no conditions which could be imposed which would adequately protect the public. Nor were there any conditions sufficiently restrictive to protect the wider public interest.
187. For the sake of completeness, the panel adds that it would not have any confidence that Ms Descartes-Williams would comply with any conditions having regard to the level of her engagement and the dismissive attitude she has demonstrated.
188. The panel then considered whether it should impose a suspension order. The panel noted that the public would be protected from the risk of repetition during the period of any suspension. However, the panel rejected this course for two reasons.
189. First there was no material before the panel that could give it any reassurance that a period of suspension would lead Ms Descartes-Williams to remediate her misconduct. On the contrary, she denied the two incidents and displayed a lack of insight and dismissive attitude, even after the passage of two years, led the panel to conclude that she was not capable of remediation.
190. Secondly, the panel found that a period of suspension would not be sufficient to maintain public confidence in the profession. The panel found that caring for the most vulnerable people in society is at the heart of social work. However, the panel has found that, on two occasions, Ms Descartes-Williams has assaulted and harmed a vulnerable person who depended upon her and shown no remorse for that misconduct, much less any insight into its wider implications. She abused her position of trust as her mother's carer and her actions were an abuse of power. Further, as a social worker, the panel would have expected her to know where to seek help and support if she was feeling challenged by her caring responsibilities. The panel found that her conduct is fundamentally incompatible with remaining a social worker.
191. The panel then considered a removal order and turned to paragraph 97 of the Sanctions guidance, which provides:

97. A removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England. A decision to impose a removal order should explain why lesser sanctions are insufficient to meet these objectives.

192. For the reasons set out above, the panel is satisfied that no other sanction would protect the public, including the wider public interest, in this case.
193. Accordingly, the panel orders that Ms Descartes-Williams be removed from the register of social workers.

Interim order

194. When the panel announced its decision on sanction, Ms Gillet applied to the panel for an interim order of suspension to cover the period of 28 days before the removal order comes into effect, and any subsequent appeal period. She told the panel that an appeal, if made by Ms Descartes-Williams, can take anything up to 18 months to be resolved.
195. The panel heard and accepted advice from the legal adviser and followed the approach set out below.
196. The panel had regard to regulation 13 of the Regulations and reminded itself that the test to be applied was whether an order is necessary to protect the public or in the social workers interests.
197. The panel had regard to the risk of repetition and harm to the public it had identified in its decision, as well as the risk to the wider public interest if Ms Descartes- Williams were allowed to return to practice.
198. In those circumstances the panel found that an immediate order of suspension is necessary to protect the public and accordingly imposes an interim order of suspension for a period of 18 months.

That concludes this determination.

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.