

Social Worker: Leila Annikici Karhu

Registration Number: SW75278

Fitness to Practise

Final Order Review Meeting:

Meeting Venue: Remote meeting

Date of meeting: 12 January 2022

Final Order being reviewed:
Suspension Order – (expiring on 24 February 2022)

Hearing Outcome:

Removal Order (to take effect upon expiry of current suspension order on 24 February 2022)

Introduction and attendees

1. This is the fourth review of a final suspension order originally imposed on 28 March 2019 for a period of four months by a Fitness to Practise Committee of the Health and Care Professions Council ('HCPC'), and extended:
 - a. by a further twelve months at a review on 15 July 2019;
 - b. by a further six months at a review on 14 July 2020;
 - c. by a further twelve months at a review on 13 January 2021.
2. The current order is due to expire at the end of 24 February 2022.
3. Ms Karhu did not attend and was not represented.
4. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Jacqueline Nicolson	Chair
Sarah (Sally) Scott	Social Work Adjudicator

Hearings Team/Legal Adviser	Role
Agnes De Biase	Hearings Officer
Paul Harris	Hearings Support Officer
Judith Walker	Legal Adviser

Service of Notice:

5. 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 dated 30 December 2021 and addressed to Ms Karhu at her address as it appears on the Social Work England Register;

- An extract from the Social Work England Register detailing Ms Karhu’s registered address;
- A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 30 December 2021 the writer sent by special delivery post to Ms Karhu at the address referred to above: Notice of Hearing and related documents;
- A copy of the Royal Mail Track and Trace Document indicating “signed for” delivery to Ms Karhu’s registered address at 10.44 on 31 December 2021.

6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rule 16 of the Social Work England Fitness to Practise Rules 2019 (the Rules) and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Karhu in accordance with Rules 44 and 45.

Proceeding in the absence of the social worker:

8. The panel next considered whether it was appropriate to proceed with the hearing in the absence of Ms Karhu.
9. The panel accepted the advice of the legal adviser in relation to the factors it should consider when deciding if it would be fair and just to proceed in Ms Karhu’s absence. This included reference to the cases of *R v Jones* [2003] 1 AC 1 and *General Medical Council v Adeogba* [2016] EWCA Civ 162’
10. The panel considered all of the information before it, noting that notice of today’s hearing had been sent to Ms Karhu in accordance with the rules and had been signed for. The panel also read that Social Work England had written to Ms Karhu by email on the 4 November 2021 advising that her suspension is provisionally scheduled to be reviewed on 12 January 2022. When no response was received from Ms Karhu to this email, Social Work England wrote to her on 12 November 2021, sending the correspondence by post to Ms Karhu’s registered address and enclosing a copy of the letter dated 4 November 2021.
11. In these circumstances the panel was satisfied that Ms Karhu should be aware of today’s hearing and had chosen voluntarily to absent herself. In the absence of any recent engagement by Ms Karhu the panel had no reason to believe that an adjournment would result in Ms Karhu’s attendance. The panel noted that this review hearing must take place before the expiry of the current suspension order, that there is an obligation for social workers to engage with their regulator, and it would run counter to the regulator’s duty to protect the public if a social worker could frustrate the process by failing to engage. Having weighed the interests of Ms Karhu in regard to her attendance at the hearing with those of Social Work England and the public interest in the expeditious disposal of this hearing, the

panel determined that it was fair and in the interests of justice to proceed in Ms Karhu's absence.

Proceeding with the final order review as a meeting:

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

"If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 10 January 2022. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and the adjudicators may decide to deal with the review as a meeting. If the adjudicators do hold a meeting, they will be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide."

13. 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."

14. The panel was satisfied that the notice had made it clear that in Ms Karhu's absence the hearing could proceed by way of a meeting and in light of the circumstances outlined in relation to the panel's decision to proceed in Ms Karhu's absence, the panel considered it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

Review of the current order:

15. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules.

The current order is due to expire at the end of 24 February 2022.

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

16. *While registered as a Social Worker and during the course of your employment at Wolverhampton City Council:*
 1. *On or around the 01 October 2016, in relation to Child A's safeguarding referral,*
 - a. *you did not:*
 - (i) *Contact Child A's father to obtain further information;*
 - (ii) *Contact medical professionals to assess the gravity of Child A's injuries;*
 - (iii) *Contact Child A's mother to agree a formal safeguarding plan;*
 - (iv) *Hold a strategy discussion with the police;*
 - (v) *Undertake background checks on Child A and/or Child A's family from Wolverhampton City Council's records;*
 - (vi) *Visit Child A.*
 - b. *You did not provide Colleague A with handover information about the safeguarding referral about Child A.*
 3. *The matters set out in paragraph 1 constitutes misconduct.*

The previous final order review panel on 13 January 2021 determined the following with regard to impairment:

17. *"In considering the question of current impairment, the panel undertook a comprehensive review of all of the information before it. It noted the decisions of the previous two review panels (15 July 2019 and 14 July 2020). However, it has exercised its own judgment in relation to the question of current impairment and accepted the advice of the legal adviser that in accordance with the judgement of Mr Justice Blake in Abrahams v General Medical Council [2008] EWHC 183 it should:*
 - a. *address whether the fitness to practise is impaired before considering the issue of sanction;*
 - b. *consider whether all the concerns raised in the original finding have been sufficiently addressed to the panel's satisfaction; and*

- c. bear in mind that in practical terms there is a persuasive burden on Ms Karhu at this review to demonstrate that she has fully acknowledged and addressed the past impairments.*

18. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.

19. The panel agreed with the previous panels that Ms Karhu's conduct was remediable, as it was a single incident in an otherwise exemplary career. The panel has no information available from Ms Karhu however, which would enable it to conclude that she has addressed the misconduct. This occurred in October 2016 and Ms Karhu has been suspended from practice since March 2019. She will need to show that she has kept her knowledge and skills up to date. In the absence of evidence of remediation and how she has kept up to date a finding of current impairment of fitness to practise is necessary in order to:

- a. protect the public;*
- b. protect the wider public interest in:*
 - i. declaring and upholding proper standards, and*
 - ii. maintaining public confidence in the profession.*

20. The panel finds that Ms Karhu's fitness to practise is currently impaired."

The previous final order review panel on 13 January 2021 determined the following with regard to sanction:

Suspension Order

21. "Having determined that a conditions of practice order would not be appropriate, the panel concluded that the appropriate sanction is a suspension order. A suspension order would prevent Ms Karhu from practising during the suspension period, which would therefore protect the public and the wider public interest.

22. The panel considered the more serious sanction of a removal order but decided that it would be disproportionate at this point in time. Although there has been no engagement by Ms Karhu with Social Work England since July 2020 the panel took into account her exceptional extenuating personal circumstances. [PRIVATE] Ms Karhu's emails to Social Work England from July 2020 expressed concern about her ability to collect evidence and access:

- a. legal support;*

- b. *Unison support;*
- c. *a hearing without support; and*
- d. *matters such as printing in libraries during the Covid-19 pandemic.*

23. **[PRIVATE]** *The panel's impression is that Ms Karhu is still committed to a career in social work in the longer term, however it is aware that if it removed Ms Karhu from the register then she would not be able to apply for restoration to the register for five years, which would be disproportionate. The panel appreciated that Ms Karhu may be unable to engage with Social Work England at this time [PRIVATE]. As such, it would be unfair to remove her from the social work register without giving her a further chance to demonstrate remediation, if she still wants to continue her career in social work. Furthermore, it would not be in the public interest to deprive the public of the services of a social worker who:*

- a. *was noted at the original March 2019 hearing to have been 'extremely and appropriately remorseful', and admitted her failings;*
- b. *other than for the single isolated incident which led to a finding of misconduct against her, has been described as:*
 - i. *"extremely hardworking, reliable and very honest";*
 - ii. *a social worker where there had been no previous concerns;*
 - iii. *a 'valued member of staff';*
 - iv. *someone "who had never previously failed to follow up a call to EDT";*
and
 - v. *someone with a "long and unblemished career as a social worker"*

24. *The panel determined that the suspension order should be imposed for a period of 12 months. The panel was satisfied that this period was appropriate, in order for Ms Karhu to have time to consider whether she wishes to return to social work and if so to take the necessary steps to show that she is safe to return to practice, whilst having to deal with the very difficult events in her private life.*

25. *A future panel is not bound by anything set out by this panel as to what Ms Karhu should provide in the future. However, Ms Karhu should note that a future reviewing panel would be helped by her attending the hearing. It is not essential for her to have legal advice or representation at a hearing, and if she is unable to attend then written submissions would be of assistance to both her and the panel. Whether or not she is attending in person or just relying on written submissions, a future reviewing panel would be assisted by:*

- a. *A short written statement providing her thoughts on the previous misconduct, what she has learnt and how she intends to prevent this from happening again;*
- b. *Comment on her previously expressed 'strong desire' to return to social work and whether that is still her wish;*
- c. *A supporting letter from her current employer (the panel noted from the correspondence dated July 2020 that she may be working full-time) about what her role involves and her abilities;*
- d. *A list of the things she has done to keep her social work knowledge and skills up to date (for example, such as reading, free and/or paid for courses, paid or unpaid work, discussions and/or shadowing with other social workers). It would be helpful if this is accompanied by some reflections on what Ms Karhu has learnt."*

Social Work England submissions:

26. The panel noted the written submissions from Social Work England as set out in the notice of hearing dated 30 December 2021 which read as follows:

'Social Work England invite the Panel to consider making a Removal Order. There is no evidence that the Social Worker has taken any steps to address the misconduct found proved or to maintain her professional skills and knowledge since the substantive hearing.

At the last review hearing, the Panel imposed a Suspension Order for a further twelve months in light of information that the Social Worker may now be willing and able to engage with her regulator and to enable the Social Worker to obtain legal advice if she wished to and to prepare evidence for the next review panel.

The Social Worker has not engaged with Social Work England or provided the relevant evidence to satisfy the Panel that she has remediated her misconduct and is capable of safe and effective practice having been subject to a Substantive Suspension Order since March 2019.

Social Work England submit that the Social Worker's fitness to practise remains impaired and invite the Panel to direct removal from the register. The Social Worker has been offered a number of opportunities to engage with the regulator and to provide evidence of her future intention regarding social work practice, and she has failed to do so. Social Work England suggest that a further period of extension will serve no useful purpose in this case and will not facilitate further engagement, such that removal is now the appropriate and proportionate sanction in this case.'

Social Worker submissions:

27. Ms Karhu did not provide any written submissions to be placed before the panel today. However, the panel had regard to previous communications received from Ms Karhu over the course of these proceedings. The last communication from Ms Karhu being dated 13 July 2020.

Panel decision and reasons on current impairment:

28. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances and exercised its own judgement in relation to the question of current impairment.
29. The panel had regard to all of the documentation before it, including the decisions and reasons of the final hearing panel and the previous review panels. The panel also took account of Ms Karhu's previous correspondence and the written submissions made on behalf of Social Work England.
30. 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 to maintain public confidence in the profession.
31. The panel first considered whether Ms Karhu's fitness to practise remains impaired. The panel deliberated that, in deciding this question, it has to consider whether all the concerns raised in the original finding of impairment have been addressed to its satisfaction. It further noted that, in practical terms, there is an obligation for the social worker at a review to demonstrate that they have addressed past deficiencies and, through insight, application, education, supervision or other achievements sufficiently remediated the past impairment.
32. The panel noted that Ms Karhu's misconduct involved a single incident which occurred in October 2016, that it appeared to be an isolated incident in an otherwise unblemished career and that Ms Karhu admitted her error and expressed remorse. It noted that Ms Karhu was an experienced social worker who had been well regarded but had been experiencing difficult personal circumstances at the time of the incident. The panel noted that Ms Karhu's misconduct was considered by the final hearing panel and the subsequent review panels to be capable of remediation had Ms Karhu engaged with the regulator. The panel further considered that there is a professional duty on social workers to engage with their regulator and that the onus is on Ms Karhu to demonstrate that she has addressed her impairment, that such behaviour is unlikely to be repeated and that she is capable of safe and effective practice. Although Ms Karhu has previously indicated that she may be willing and able to engage with her regulator, there is no information before this panel to indicate that she has done so.

33. The last review panel, in January 2021 noted that Ms Karhu had not provided any information which would enable it to conclude that she had addressed her misconduct and kept her knowledge and skills up to date. That panel made recommendations as to what might assist a future reviewing panel, but Ms Karhu has not acted on these recommendations at all. In these circumstances the panel is not satisfied that Ms Karhu has addressed her misconduct and accordingly a finding of continued impairment is necessary in order to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintaining public confidence in the profession.
34. The panel finds that Ms Karhu's fitness to practise is currently impaired.

Decision and reasons on sanction:

35. Having found Ms Karhu's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made on behalf of Social Work England and to all the information before it. It accepted the advice of the legal adviser.
36. The panel considered the written submissions made on behalf of Social Work England in which they invited the panel to consider imposing a removal order. The panel also took into account the Sanctions Guidance published by Social Work England.
37. The panel was mindful that the purpose of any sanction is not to punish Ms Karhu but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Karhu's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

38. The panel concluded that it would be inappropriate to take no action. Ms Karhu's registration has been suspended for almost three years and therefore she has been out of practice as a social worker for a considerable time. She has not remediated her impairment and taking no action would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

39. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Karhu's ability to practise. The panel considers there is an absence of information to show that she has remediated her impairment, kept up to date and is capable of safe and effective practice some restriction on her practise is

required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Conditions of Practice Order

40. The panel went on to consider a conditions of practice order. The panel took the view that Ms Karhu's deficiencies are potentially capable of being remedied if she was willing to engage with her regulator, comply with conditions and demonstrate that she is fit to practise. However, the panel has no information from Ms Karhu to indicate that is able or willing to do so. The panel was aware that in the past Ms Karhu had recognised that she was not fit to practise due to her personal circumstances at the time and had asked her regulator (HCPC) to suspend her for a further 12 months. However, the panel has no information about her current employment position, personal circumstances, or whether she wishes to return to social work in the future. Had the panel received some communication from Ms Karhu indicating a willingness or desire to return to social work and engage in the process, the imposition of a conditions of practice order may have been a viable outcome. However, in the absence of any communication from Ms Karhu to this effect in the course of the last 18 months the panel considered that a conditions of practice order would not be workable, appropriate or sufficient.

Suspension Order

41. Having determined that a conditions of practice order would not be appropriate, the panel next considered extending the current suspension order. A suspension order would prevent Ms Karhu from practising during the suspension period and would therefore protect the public from harm. However, the panel did not consider that a further extension of the suspension order would protect the wider public interest. In reaching this conclusion the panel noted that Ms Karhu has been suspended for almost three years and, although she has in the past expressed some desire to return to social work, there has been no communication or engagement from her in the past eighteen months. The panel were conscious of Ms Karhu's very difficult personal circumstances which appeared to have been ongoing over the course of these proceedings. However, the panel had no up to date information about any of these matters and Social Work England have received no contact from Ms Karhu over the past 18 months to inform them of her current situation. Social workers have a professional duty to engage with their regulator, even if such engagement is limited to brief updates due to their particular circumstances or difficulties at a particular time.
42. Ms Karhu has not engaged at all despite the last review panel in January 2021 extending the suspension order for a further twelve months. In their determination that panel explained

that it *“was satisfied that this period was appropriate, in order for Ms Karhu to have time to consider whether she wishes to return to social work and if so to take the necessary steps to show that she is safe to return to practice, whilst having to deal with the very difficult events in her private life”*. The determination further stated that *“A future panel is not bound by anything set out by this panel as to what Ms Karhu should provide in the future. However, Ms Karhu should note that a future reviewing panel would be helped by her attending the hearing. It is not essential for her to have legal advice or representation at a hearing, and if she is unable to attend then written submissions would be of assistance to both her and the panel. Whether or not she is attending in person or just relying on written submissions, a future reviewing panel would be assisted by...”* and the panel listed various actions for Ms Karhu to consider.

43. This panel is of the view that the total disengagement by Ms Karhu over this period of time is not acceptable and that a further extension of the current suspension would send an unacceptable message about the standard of behaviour expected from social workers and would undermine public confidence in social workers and in Social Work England as a regulator. Ms Karhu has been offered a number of opportunities to engage with the regulator and to provide evidence of her future intention regarding social work practice, but she has not done so. In these circumstances the panel considers that a further period of extension will serve no useful purpose and will not facilitate further engagement. Accordingly, a further period of suspension is not sufficient to protect the public and, in particular, to protect the wider public interest, uphold proper standards of practice and maintain confidence in the regulator and profession, such that removal is now the only appropriate and proportionate sanction in this case.

Removal Order

44. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. For the reasons outlined in respect of its consideration of a further period of suspension the panel concluded that a removal order is the only outcome which will adequately protect the public and the wider public interest, uphold proper standards of practice and maintain confidence in the regulator and profession. In the circumstances of this case a removal order is both necessary and proportionate.
45. The panel therefore determined that a removal order be imposed from the date of expiry of the current order on 24 February 2022.

Right of Appeal:

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

d. 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,

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

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

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

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

Review of final orders

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

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

50. Under rule 16 (aa) of Social Work England's fitness to practise rules, a registered social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.