

Social Worker: Alison J Gulliver

Registration Number: SW72890

Fitness to Practise

Final Order Review Hearing:

Hearing Venue: Remote hearing

Date of hearing: 11 April 2022

Final Order being reviewed:

Suspension Order originally made on 28 April 2021 and expiring on 23 May 2022

Hearing Outcome:

Removal order to take effect at the expiry of the current suspension order.

Introduction and attendees

1. This is the third review of a final suspension order originally imposed for a period of 4 months by a panel of adjudicators on 28 April 2021. The first review took place on 16 August 2021 in which another suspension order for four months was imposed. The second review took place on 21 December 2021. On that occasion the reviewing panel imposed a further suspension order for four months to run from the expiry of the original order.
2. Ms Gulliver did not attend today's review and was not represented. She sent no submissions to the panel.
3. Social Work England is represented by Capsticks LLP ("Capsticks") but they were not instructed to attend today. Their written submissions are set out in a letter dated 28 March 2022 notifying Ms Gulliver of today's review ("the notice of hearing").
4. The details of the other people involved in the conduct and administration of this review are set out below.

Adjudicators	Role
Sara Nathan	Chair
Anne Rice	Social Worker Adjudicator

Hearings Team/Legal Adviser	Role
Elle Langdown	Hearings Officer
Robyn Watts	Hearings Support Officer
John Hamilton	Legal Adviser

Service of Notice:

5. The panel of adjudicators ("the panel") was provided with the following electronic bundles of PDF documents for this review.
 - A 73 page bundle entitled 'Substantive Order Review Bundle 11 April 2022' ("the hearing bundle").
 - A 13 page bundle entitled 'Service and Supplementary Bundle Substantive Order Review Hearing 11 April 2022' ("the service bundle").
6. The service bundle included the following documents:
 - An extract from the Social Work England Register ("the Register") detailing Ms Gulliver's registered postal and electronic mail ("e-mail") addresses.
 - A copy of the notice of hearing. The notice of hearing is addressed to Ms Gulliver at her postal address and e-mail address as they appear on the Register.

- A copy of a Statement of Service signed by a paralegal from Capsticks, confirming that on 28 March 2022, the notice of hearing and enclosures were sent to Ms Gulliver at her postal address shown on the Register by special delivery and by email to her e-mail address as shown on the Register.
- A copy of the e-mail referred in the Statement of Service.
- A copy of a Royal Mail special delivery receipt confirming the notice of hearing was delivered on 29 March 2022.

Proceeding with the interim order review as a meeting:

7. The notice of hearing informed Ms Gulliver that the review would take place electronically and stated:

“If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 5 April 2022. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and Social Work England may, under Rule 16 of the Fitness to Practise Rules, decide to deal with the review as a meeting.

If the review is dealt with by way of a meeting, then your written submissions will then need to be sent to Capsticks by no later than 4pm on 5 April 2022.”

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

“16(d): Where the registered social worker makes written submissions and states they intend to attend before the regulator, the regulator may direct that the question of whether an order should be made is determined by means of a meeting.”

9. The panel legal adviser drew the panel’s attention to Rule 16 of Social Work England’s Fitness to Practise Rules (“the rules”) and paragraph 15(5) of Schedule 2 of the Social Workers Regulations 2018 (the regulations) which set out the requirements for service. These include notice of the date of the review hearing and the right to attend and/or make representations. Rules 44 and 45 of the rules set out the requirements for service including service by email and the minimum content of the notice documents.
10. Having had regard to rule 16 and 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 Gulliver in accordance with rules 44 and 45.

Proceeding in the absence of Ms Gulliver:

11. The panel accepted the advice of the legal adviser who referred the panel to the decision in *Adeogba v GMC* [2016] EWCA Civ 162 which clarified the relevant factors to be considered in whether to proceed in a practitioner’s absence. The factors were endorsed in *Sanusi v GMC* [2019] EWCA Civ 1172 and summarised in Social Work

England's guidance entitled 'Service of Notices and Proceeding in the Absence of a Social Worker' as follows:

- 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 of 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.
- Social workers have a responsibility to engage with Social Work England in response to concerns about their fitness to practise.
- Panels should not proceed with a substantive fitness to practise hearing if they have evidence that the social worker is involuntarily absent unless the social worker has agreed the hearing could go ahead in their absence.
- Any 'culture' of adjournment is discouraged..
- The seriousness of the fitness to practise concern is not a relevant factor in deciding whether to proceed in absence.
- If a social worker is absent and the hearing proceeds, the decisions of the panel at each stage should be communicated to the social worker but there is no requirement to adjourn after each decision to see if the social worker then wishes to take part in the hearing.

12. The panel considered all of the information before it. At all times, the panel bore in mind that proceeding in Ms Gulliver's absence was likely to cause her prejudice because she would be unable to address the panel directly. The panel also took into account that:

- Ms Gulliver had been properly served with the notice of hearing.
- She had not provided written submissions or applied for an adjournment.
- She had sent an email to Social Work England on 18 November 2021, prior to the second review, in which she made clear that she did not accept the finding of dishonesty and did not intend to practise as a social worker again.
- This is a mandatory statutory review.

13. In the circumstances, the panel decided that Ms Gulliver was aware of today's review, had decided to voluntarily absent herself and that adjourning the review was unlikely to secure her attendance on a future date. Having weighed the interests of Ms Gulliver with those of Social Work England and the public interest in the expeditious disposal of this mandatory review, the panel decided it was fair and in the interests of justice to proceed in the absence of Ms Gulliver.

Review of the current order:

14. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be decided in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules.
15. The current order is due to expire on 23 May 2022.

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

'Whilst employed at East Sussex County Council ("the Council") as a Social Worker, you:

1. Did not declare to the Council, in a timely manner, a potential conflict of interest in relation to:

(a) your private business, 'SF';

(b) Person A's business, 'PST'.

2. Demonstrated poor professional judgment and/or acted contrary to the Code of Conduct and Conflict of Interest Policy in that you:

(a) between approximately October 2014 and 25 November 2015, undertook work in relation to your private business without seeking prior approval.

(b) in 2016, sought to recommend Person A's business for a service user of the Council without disclosing your connection to the business.

3. Breached confidentiality in that you sent sensitive information relating to service users to:

(a) your private email address

(i) on 12 November 2014;

(ii) on 15 April 2016.

(b) Person A's private email address on 10 December 2015.

4. The actions you took were dishonest:

(a) [not proven]

(b) as described in paragraph 2 a) and/or 2 b) since you knew you should not have taken these actions but did so anyway.'

The second review panel on 21 December 2022 determined the following with regard to impairment:

16. In respect of impairment, the second reviewing panel on 21 December 2022 decided:

'47. The panel first considered whether Ms Gulliver's fitness to practise remains impaired. The panel accepted the advice that, following the case of Abrahaem, Ms Gulliver bore at least a persuasive burden to demonstrate how she had addressed the past finding of impairment.

48. In considering current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panel but exercised its own independent judgement in determining whether Ms Gulliver's fitness to practise remains currently impaired.

49. The panel noted that Ms Gulliver had only engaged with Social Work England by email on 8 November 2021 since the last review. She said that she does not accept that earlier panels' findings in regard to her impaired practice. She stated that she does not accept that she has acted dishonestly. She has not taken the opportunity to engage usefully with the first review panel's recommendations. She has, despite a history of positive and constructive engagement with the process until after the final hearing, done nothing to attempt to restore her practice to the point that she could be regarded as capable of unrestricted practice. The panel observed that in terms of the wider public interest element of the overarching objective of public protection, (maintaining confidence in the profession), the periods of suspension already elapsed could easily be regarded as having served that purposefully. The only 'live' element of current impairment of practice is therefore in relation to the unremedied dishonesty findings. Dishonesty, the High Court has repeatedly made clear, is not a monolithic concept. Dishonesty exists on a spectrum from minor to major. In the former case, remediation is entirely possible with sufficient insight and action by the registrant. Where dishonesty is at its greatest, the behaviour is so corrosive of the public's and professional colleagues' trust and is so at variance with the fundamental tenets of the profession that continued registration is indefensible. The panel consider that Ms Gulliver's dishonesty is closer to the lower end of the range, and it found itself disappointed at Ms Gulliver's recent attitude to gaining improved insight and restoring her good standing in the profession by not evidencing and submitting appropriate remediation. The panel is aware that there is a public interest in restoring a fully remediated practitioner back to unrestricted practice.

50. The panel considered that Ms Gulliver's practice remains impaired. The panel also found impairment on the basis of the need to declare and uphold professional standards.'

The second review panel on 21 December 2021 determined the following with regard to sanction:

17. In respect of sanction, the second reviewing panel on 21 December 2022 decided:

'51. Having found Ms Gulliver'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 along with all the information and accepted the advice of the legal adviser.

52. The panel considered the submissions made by Ms Bruce-Jones on behalf of Social Work England, during which she invited the panel to consider removing Ms Gulliver from the register. The panel also took into account the Sanctions Guidance published by Social Work England.

53. the panel was mindful that the purpose of any sanction is not to punish Ms Gulliver, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Gulliver's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

54. the panel concluded that, in view of the nature of Ms Gulliver's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

55. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Gulliver's ability to practise and is therefore not appropriate where there were attitudinal issues in the past, including dishonesty. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

56. *The panel went on to consider a Conditions of Practice Order. The panel took the view that Ms Gulliver's deficiencies may be potentially capable of being remedied but it had no information before it on which it could make that determination.*

57. *The periods of suspension already elapsed had, in the panel's view, served the purposes of the wider public interest elements of the overarching objective. In that regard therefore, unusually, the remaining undeveloped insight and untaken steps in practical remediation left room for this matter to be resolved by conditions of practice. However, at present and in light of the email by Ms Gulliver dated 8 November 2021, the panel was not satisfied that appropriate, workable conditions could be formulated in response to Ms Gulliver's present stance as regards her dishonesty. Further, there was no evidence before the panel that, at present, Ms Gulliver has a willingness to work with conditions of practice.*

Suspension Order

58. *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 Gulliver from practising during the suspension period, which would therefore protect the public and the wider public interest.*

59. *The panel determined that the Suspension Order should be imposed for a period of 4 months. The panel was satisfied that this period was appropriate, in that it will allow time for Ms Gulliver to undertake and formulate some material for remediation of her misconduct and to demonstrate her development of full insight.*

60. *The panel took into account Ms Gulliver's latest email in which she appears to set out an intention not to practise as a social worker. However, the panel considered the evidence in the round and recognised that Ms Gulliver was actively and constructively participating in the regulatory process until recently. The panel considered that Ms Gulliver may have misunderstood the options available to her to demonstrate remediation and full insight. The panel have already set out above that the courts do not consider dishonesty as being monolithic as set out in paragraph 49 above. In consequence, the panel consider that it is fair and proportionate for Ms Gulliver to be afforded another opportunity to evidence and submit to Social Work England the steps she may wish to take to take. The suspension period of four months reflects the amount of time that Ms Gulliver may need to reflect on the panel's findings and to devise a plan of action targeted towards a return to the register unrestricted.*

61. *This panel cannot bind a future panel. However, a future reviewing panel would be greatly assisted if Ms Gulliver were to attend the review hearing for this order (including remotely). It would be of assistance to that panel if Ms Gulliver was able to*

provide evidence that she has undertaken significant steps that would facilitate a safe and effective return to the register without restriction. This may include:

- (i) Evidence that she has kept her social work skills and knowledge up to date, such as:*
 - *Training courses (online or otherwise);*
- (ii) Any written reflections on the findings of the original hearing using a reflective tool such as Gibbs;*
- (iii) Any references or testimonials from persons or bodies for whom she has worked in recent times*
- (iv) Any other material that Ms Gulliver would like to present.*

Removal Order

62. 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. The panel took the view that a removal order would be disproportionate at this stage, in light of the findings of the original panel over the level and seriousness of the original misconduct.'

Submissions:

18. Social Work England's submissions were set out in the notice of hearing as follows:.

'There is no evidence currently available which changes the level of risk. In the absence of clear evidence both of remediation and that the Social Worker has met the recommendations of the previous Panel, Social Work England will invite the Panel to find the Social Worker's fitness to practice continues to be impaired. If the Social Worker, between now and the review hearing, states that she is able to attend and provides evidence that she has reflected on her previous conduct and taken steps to evidence remediation to allow a safe and effective return to the register, Social Work England will invite the Panel to consider if they are satisfied that her fitness to practise is no longer impaired. In those circumstances then the Panel could allow the order to lapse on completion of the current term. However, should the Social Worker absent herself from the review hearing and not provide any evidence that could be considered by the Panel, Social Work England will invite the Panel to consider imposing a Removal Order on the grounds that her fitness to practise remains impaired and there appears to be no likelihood of further engagement or attempts to remediate the dishonesty concerns.'

19. Ms Gulliver had not provided any written submissions. However the panel took into account the email sent on 8 November 2021 to Social Work England setting out her reasons for not renewing her annual registration in November 2021 and the reasons

why she did not accept that her practise was currently impaired. The email contained elements of private matters relating to Ms Gulliver's private life. The panel decided that these matters fell under its discretion to proceed partly in private so as to respect Ms Gulliver's right to privacy, as provided under rule 32(a).

In Private

20. The email read as follows: [PRIVATE]

In public

Panel decision and reasons on current impairment:

21. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and the submissions made on behalf of Social Work England. It undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panel but exercised its own independent judgement in deciding whether Ms Gulliver's fitness to practise remains currently impaired.
22. The panel accepted the advice of the legal adviser who told the panel that it must decide if Ms Gulliver's practice is impaired today. He also referred the panel to the relevant guidance on impairment issued by Social Work England.
23. The panel was aware that following the decision in *Abrahaem v GMC* [2008] EWHC 183 (Admin), at a review hearing there was at least a persuasive burden on Ms Gulliver to demonstrate how they had addressed past impairment.
24. The panel took into account that Ms Gulliver had an unblemished career prior to these regulatory proceedings and at all times it was aware that there is a public interest in restoring a fully remediated practitioner back to unrestricted practice.
25. The panel considered that Ms Gulliver's dishonesty was at the very lowest end of the spectrum of seriousness and had occurred in very specific circumstances relating to her wish to help her daughter set up a business. However the panel noted the findings made at the final hearing that Ms Gulliver had closed her eyes to the conflict of interest and had been less than frank when concerns were raised. The panel bore in mind that dishonesty is always a serious matter and in the absence of remediation, it would be highly unusual if it did not result in a finding of impairment.
26. The panel also took into account that that Ms Gulliver engaged fully with the regulatory process up to and including the final fitness to practise hearing. The panel considered that given Ms Gulliver's dishonesty had been at the lowest end of the spectrum of seriousness, remediation was entirely possible through reflection and demonstrating sufficient insight.

27. The panel was disappointed and saddened to note that despite the encouragement and guidance offered by the second reviewing panel, Ms Gulliver has not engaged with Social Work England since sending the email on 8 November 2021. There was no evidence or information before the panel to show Ms Gulliver had followed the recommendations made by the previous reviewing panels. It considered it was reasonable to infer that Ms Gulliver still does not accept the final hearing panel's findings that her practice is impaired and that she acted dishonestly.
28. The panel therefore concluded that following the final hearing, Ms Gulliver had not taken any steps to remediate by reflecting on her conduct and thinking about why, from an objective point of view, the final hearing panel had found that she acted dishonestly.
29. The panel considered that while at the final fitness to practise hearing Ms Gulliver appeared to have been open to the possibility her conduct could have been interpreted as less than open, since then her attitude appears to have become more entrenched.
30. The panel acknowledged that the circumstances in which Ms Gulliver's dishonesty occurred were unlikely to reoccur and took into account that the regulatory process was likely to deter Ms Gulliver from acting in a similar manner in future. Nevertheless, the panel considered Ms Gulliver's very limited insight meant it could not be confident that circumstances could arise in her practice where she would act in a dishonest manner because she did not consider herself to be acting dishonestly or because she believed her actions were justified.
31. When considering the wider public interest element of the overarching objective of public protection, (maintaining confidence in the profession), the panel agreed with the second reviewing panel that the periods of suspension already elapsed could be regarded as having addressed the need to maintain confidence in the social work profession and uphold professional standards. However the panel considered that a member of the public aware of all the relevant facts would be concerned if Ms Gulliver were permitted to return to unrestricted practice given her ongoing refusal to accept that she has done anything wrong or taken any steps to improve her insight and thus restore her good standing in the profession.
32. The panel, with significant regret, considered it had no option but to find that Ms Gulliver's practice remains impaired on the grounds of public protection including the need to maintain confidence in the social work profession and declare and uphold professional standards.

Decision and reasons on sanction:

33. Having found Ms Gulliver's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel took into

account all the information before it including the submissions made on behalf of Social Work England.

34. The panel took advice from the legal adviser who referred the panel to the relevant guidance on sanctions issued by Social Work England (“the sanctions guidance”).
35. The panel bore in mind at all times that the purpose of any sanction is not to punish Ms Gulliver, but to protect the public and the wider public interest (including maintaining public confidence in the profession and by upholding proper standards of conduct and behaviour.) The panel applied the principle of proportionality by weighing Ms Gulliver’s interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

36. The panel concluded that, in view of the nature of Ms Gulliver’s impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

37. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Gulliver’s ability to practise and is therefore not appropriate where there were attitudinal issues in the past, including dishonesty. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

38. The panel went on to consider a Conditions of Practice Order. The panel took into account that attitudinal issues are difficult to address with conditions of practice even if a social worker is prepared to co-operate. The panel did not consider appropriate, workable conditions could be formulated that would address Ms Gulliver’s attitude towards her dishonest conduct. Furthermore given the views expressed by Ms Gulliver in her email dated 8 November 2021, the panel could not be confident that Ms Gulliver has any interest in co-operating with conditions of practice.

Suspension Order

39. The panel went on to consider whether a further period of suspension would be an appropriate sanction. The panel acknowledged that a further suspension order would prevent Ms Gulliver from practising during the suspension period and that this would protect the public and address the wider public interest. The panel also took into

account that this would give Ms Gulliver a further opportunity to remediate by demonstrating insight.

40. However this panel noted that when the second reviewing panel imposed a further suspension order, it considered that Ms Gulliver may have misunderstood the options available to her and had encouraged her to use the further suspension period to devise a plan of action targeted towards a return to the register unrestricted.
41. This panel considered that Ms Gulliver's views expressed in her email of 8 November 2021 and her lack of engagement since the second review showed that she did not intend to remediate, had effectively retired and no longer wished to practise as a social worker.
42. The panel therefore concluded that a further suspension was unlikely to serve any purpose. The panel also considered that as Ms Gulliver clearly wanted to leave the Register, had stated that she was no longer paying the annual fees and was only currently prevented from formally leaving the profession because of these ongoing regulatory proceedings. In the circumstances the panel concluded it would be unfair to Ms Gulliver to prolong these proceedings by imposing a further suspension order.

Removal Order

43. 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. However, the panel took the view that despite the low level of seriousness of the original misconduct, removal was now appropriate and proportionate. Ms Gulliver had made clear she had no wish to remediate and therefore the attitudinal issues that gave rise to her misconduct are unlikely ever to be adequately addressed. For the reasons already given, the panel also concluded that these regulatory proceedings had reached a stage where there was a danger that prolonging them would be oppressive.
44. The panel therefore decided with great regret that an order that Ms Gulliver be removed from the Register was appropriate and proportionate.
45. This order will come into effect at the end of the current suspension order.
46. The panel would have preferred to have had the power to suggest a consensual disposal order, leading to removal from the register with undertakings not to re-join it, as some other regulators do. This would have had the same effect without a forced removal at

the end of a long and largely successful career as a social worker. But this option was not available to the panel in this jurisdiction.

Right of Appeal:

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

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

48. 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.

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

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

Review of final orders

50. 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.

51. 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.