

Social worker: Kayode Andrew
Ottu

Registration number: SW37171

Fitness to practise: Final hearing

Date of hearing: Monday 27 June 2022 – Friday 1 July 2022

Hearing Venue: Social Work England Remote hearing

Hearing outcome: Removal Order

Interim order: Interim Suspension Order (18 months)

Introduction and attendees

1. This is a final hearing held under Part 5 of The Social Workers Regulations 2018 (“the Regulations”).
2. Mr Ottu attended the hearing but was not represented.
3. Social Work England was represented by Ms Atkin, presenting officer from Capsticks LLP.

Adjudicators	Role
Hilary Nightingale	Chair
Rosemary Chapman	Social Worker Adjudicator
Zulfiqar Sher	Lay Adjudicator

Elle Langdown	Hearings Officer
Paige Higgins	Hearing Support Officer
Sean Hammond	Legal Adviser

Allegations:

4. The allegations referred to a Final Hearing by a panel of the Investigating Committee of the Health and Care Professions Council’s (“HCPC”) on 21 February 2019, as amended by a panel of Social Work England adjudicators following a Case Management Meeting on 26 and 30 May 2022 are as follows:

Whilst working as a Registered Social Worker for Medway Council, you:

1. *Crossed professional boundaries in that you engaged in sexual activity with Person A on one or more occasions, including on an occasion in a public car park on 5 April 2016 in the back of your car.*
2. *Did not record any meeting with Person A on 5 April 2016 in the case records.*
3. *On 5 April 2016 urinated in the public stairwell of a car park.*
4. *Did not record one or more telephone calls made to Person A on the following dates in the case records:*

- a) 15 January 2016
- b) 18 January 2016
- c) 20 January 2016
- d) 21 January 2016
- e) 26 January 2016
- f) 27 January 2016
- g) 29 January 2016
- h) 1 February 2016
- i) 9 February 2016
- j) 10 February 2016
- k) 11 February 2016
- l) 12 February 2016
- m) 17 February 2016
- n) 19 February 2016
- o) 22 February 2016
- p) 23 February 2016
- q) 24 February 2016
- r) 26 February 2016
- s) 1 March 2016
- t) 2 March 2016
- u) 4 March 2016
- v) 9 March 2016
- w) 10 March 2016
- x) 15 March 2016
- y) 17 March 2016
- z) 22 March 2016
- aa) 24 March 2016

bb) 5 April 2016

5. *Contacted and/or attempted to contact Person A on one or more occasions on and after 18 April 2016 using your personal phone on the following dates:*
 - a) 18 April 2016*
 - b) 19 April 2016*
 - c) 20 April 2016*
 - d) 25 April 2016*
 - e) 24 May 2016*
 - f) 25 May 2016*
6. *Your actions at 1 to 5 above amount to misconduct.*
7. *By reason of your misconduct, your fitness to practise is impaired.*

Background:

5. On 7 June 2016, Kent Police submitted a referral to the HCPC regarding Mr Ottu. The concerns raised related to Mr Ottu's alleged conduct towards Person A.
6. At the material time, Mr Ottu was employed as a social worker in the Children's Services department of Medway Council ("the Council") via an agency called SW Locums ("the agency").
7. Mr Ottu was the allocated social worker for Person A's children between 20 November 2015 and 18 April 2016.
8. Person A was a service user of the Council and she had two children who were subject to Child Protection Plans. Person A was residing with her two children at the home of the parents of her first husband. There were issues surrounding domestic violence between Person A and her then partner, hence Person A had sought refuge away from him.
9. As Person A's children were on Child Protection Plans, Mr Ottu was under a duty to conduct visits to the children a minimum of every fortnight to ensure that they were not coming to any harm
10. On 15 April 2016, Mr JD, Assistant LADO for Medway Council, received a referral from Kent Police regarding an incident that had been captured on CCTV in a multi-storey car park situated opposite the Social Services offices where Mr Ottu was based.

11. Security staff were monitoring CCTV footage from the car park due to concerns that a prostitute was operating within it. They passed the CCTV footage from 5 April 2016 to Kent Police as they had concerns about the activity captured. It showed a male, who was later identified as Mr Ottu, apparently urinating against a wall on level 8 of the car park. The CCTV footage also showed a female, who was later identified as Person A, using her mobile telephone on level O of the car park. The CCTV footage then showed Person A making her way to level 8 of the car park. The CCTV footage did not appear to show Mr Ottu and Person A greeting or speaking to each other. The CCTV footage showed them walking to a parked car and both getting into the back seat where they remained for approximately 20 minutes. The car was later identified as belonging to Mr Ottu. Mr Ottu and Person A were identified as a result of the police tracing their car registrations.
12. Mr Ottu was suspended from employment with the Council on 18 April 2016. However, he was not informed of the nature of the concerns given the ongoing police investigation.
13. On 13 May 2016, Mr JD went with his colleague Ms AM to speak with Person A. Person A had been told that they wished to seek her views on the social workers who had worked with her. During this meeting, Person A disclosed that she and Mr Ottu kissed and had sex in the back of his car. She said that the first time had been after a court hearing in January 2016 and that they had had sex 3 or 4 times on different occasions. Person A was then shown images from the CCTV footage from the car park on 5 April 2016 and she confirmed that this was one of the occasions when she had had sex with Mr Ottu. Person A informed Mr JD that she did not wish to speak to the police herself but confirmed that she was happy for information to be shared with them.
14. Mr JD and Ms AM produced notes of their meeting with Person A on 13 May 2016.
15. On 25 May 2016, as part of the police investigation, Detective Constable PN (as he then was), had a conversation with Person A on the telephone for approximately one hour. Detective Constable PN recorded notes of that conversation in the police crime report. Detective Constable PN recorded that Person A described first having sex with Mr Ottu in January 2016. He further recorded that in relation to the occasion where they were both caught on CCTV on 5 April 2016, Person A had stated that it was quite normal for Mr Ottu to call and meet her in a car and have sex. Detective Constable PN also recorded that Person A made it clear that she did not want to support a police investigation.
16. Mr Ottu was arrested and interviewed by the police for the first time on 5 June 2016. During this interview, Mr Ottu initially denied having met Person A in a car park, then when told there was evidence of this, denied that they would have got into his car.

17. The investigations conducted by the police and the LADO involved examination of Mr Ottus's personal and work mobile phone records, mobile phone cell site data and service user records relating to Person A and her two children.
18. Mr Ottu was interviewed by the police on two further occasions, on 29 June 2016 and on 27 July 2016.
19. During the police interview on 29 June 2016, Mr Ottu was shown the CCTV evidence from the multi-storey car park on 5 April 2016. Mr Ottu accepted that:
 - He had driven into the car park and parked on the top floor.
 - He had urinated in the stairwell of the car park.
 - He had met with Person A in the stairwell of the car park at 12.30pm.
 - He and Person A had walked back to his car and both got into the back of the car at 12.31pm.
 - At 12.51pm Person A had got out of the car and walked off, following which he got out of the back and got into the front seat of the car.
 - He had called Person A the day after he had been suspended on his personal mobile phone (on 19 April 2016).
20. During the subsequent police interview on 27 July 2016, Mr Ottu accepted that he had called Person A on his personal mobile telephone after he had been suspended (on 18 April 2016) in addition to calling her on the following day (on 19 April 2016).
21. Throughout all three police interviews, Mr Ottu strenuously denied having engaged in any sexual activity with Person A.
22. In August 2016, Kent police decided not to charge Mr Ottu with any criminal offences arising from these allegations as a consequence of Person A not supporting a criminal prosecution.
23. Mr Ottu provided detailed written submissions to the HCPC on 17 December 2018. In those written submissions, Mr Ottu denied that he engaged in sexual activity with Person A, and described the allegation as *"false and malicious"*. Mr Ottu further submitted that *"it is not only mischievous, but criminal by Medway Children services to allege that I had not recorded my meeting with Person A on the 5th April 2016"*. Mr Ottu submitted that to the best of his knowledge he was honest when he indicated during the investigation that he had done so.
24. With regards to making calls to Person A after he was suspended on 18 April 2016, Mr Ottu submitted that he recalls speaking to Person A on one occasion on 19 April 2016

when he explained that he was unable to attend a Core Group Meeting; he submitted that all other calls were not made to his knowledge. Mr Ottu further submitted that he regrets calling Person A and would not have done so if he had known a serious allegation had been made against him.

Admissions to the Allegations:

25. When the Allegations were put to Mr Ottu at the beginning of this hearing, he admitted allegation 3.
26. In relation to allegation 5, Mr Ottu admitted that on 19 April 2016, he had contacted person A on his personal mobile telephone.
27. Having regard to Mr Ottu's admission, the panel found allegation 3 proved.
28. The panel noted Mr Ottu's partial admission to allegation 5.

Summary of Evidence:

29. Prior to the commencement of the hearing, the panel were provided with and considered the following:
 - Social Work England's 15-page Final Statement of Case;
 - Social Work England's 28-page Final Witness Statement Bundle;
 - Social Work England's 626-page Final Exhibit Bundle;
 - Mr Ottu's 94-page Social Worker's Response Bundle;
 - Social Work England's 69-page Service and Supplementary Bundle; and
 - Social Work England's Hearing Timetable.

Evidence presented at the Final Hearing by Social Work England:

30. Ms Atkin called two witnesses to give oral evidence to the panel, namely:
 - Mr JD, former Assistant LADO at the Council (now retired).
 - Acting Detective Inspector PN of Kent Police (Detective Constable PN at the relevant time).
31. During his evidence to the panel, Mr JD adopted the contents of his witness statement made to the HCPC dated 10 June 2019. Ms Atkin referred Mr JD to his witness statement

and to the exhibits he produced. Mr JD was cross-examined by Mr Ottu and was asked some questions by the panel to clarify certain aspects of his evidence.

32. In his witness statement dated 10 June 2019, Mr JD produced the following exhibits:
- (i) Exhibit 25 - Police Intelligence Report dated 13 April 2016;
 - (ii) Exhibit 24 - Email from the Police to Mr JD providing images captured from CCTV of the car park on 5 April 2016;
 - (iii) Exhibits 13-18 – LADO records showing Mr JD’s involvement in respect of the Investigation;
 - (iv) Exhibits 20-22 – Notes of LADO meeting with Person A on 13 May 2016
 - (v) Exhibit 23 – Record of calls made on Mr Ottu’s Medway Council issued mobile telephone for the period 21 October 2015 to 4 March 2016;
 - (vi) Exhibit 10 - Record of calls made by Mr Ottu’s Medway Council issued mobile phone to Person A, cross-referenced with Person A’s children’s case records, indicating where there was phone contact but no corresponding entry in the case records;
 - (vii) Exhibit 2 - Email from Mr JD to the HCPC dated 9 June 2016, providing an update in regards to the regulatory concerns raised against Mr Ottu;
 - (viii) Exhibit 4 - Email from Ms CW, Senior LADO at Medway Council to the HCPC dated 24 June 2016, confirming that the Police investigation is on-going;
 - (ix) Exhibit 6 - Email from Ms CW, Senior LADO at Medway Council to the HCPC dated 22 August 2016, informing the HCPC that the Police had notified Medway Council that a decision had been taken by them not to progress the criminal investigation in relation to Mr Ottu any further; and
 - (x) Exhibit 26 – Service User records for Person A’s children.
33. During his evidence to the panel, Acting Detective Inspector PN adopted the contents of his witness statement made during the Social Work England investigation dated 14 March 2022. Ms Atkin referred Acting DI PN to his witness statement and to the exhibits he produced. Acting DI PN was cross-examined by Mr Ottu and was asked some questions by the panel to clarify parts of his evidence.
34. In his witness statement dated 14 March 2022, Acting DI PN produced the following exhibits:
- (i) PN/01 – Police Crime Report containing entries between 17 May 2016 and 20 October 2016;

- (ii) Exhibit 25 - Police intelligence report dated 13 April 2016 (already exhibited by Mr JD);
- (iii) Exhibit 24 - Email dated 20 April 2016 from the Police to Mr JD with images captured from the CCTV footage of the car park on 5 April 2016 (already exhibited by Mr JD);
- (iv) Exhibits 13-17 - Extract from Record of LADO Investigation detailing Acting DI PN's involvement;
- (v) Exhibit 23 - Record of calls made on Mr Ottu's Medway Council issued mobile telephone for the period 21 October 2015 to 4 March 2016 (already exhibited by Mr JD);
- (vi) Exhibit 27 - Further mobile phone records for Mr Ottu's Medway Council issued mobile telephone for the period 9 March 2016 to 5 April 2016;
- (vii) Exhibit 3 - Letter from Kent Police to the HCPC dated 7 June 2016;
- (viii) Exhibit 8 - Transcript of Mr Ottu's police Interview on 29 June 2016;
- (ix) Exhibit 12 - Extract from Record of LADO Investigation dated 16 July 2016;
- (x) Exhibit 9 - Transcript of Mr Ottu's police interview on 27 July 2016;
- (xi) Exhibit 5 - Email from Kent Police to the HCPC dated 11 August 2016 confirming no further action to be taken against Mr Ottu; and
- (xii) Exhibit 7 - Letter from Kent Police to the HCPC dated 12 September 2016 confirming the no further action was taken against Mr Ottu as Person A would not support a prosecution.

Evidence presented at the Final Hearing by Mr Ottu:

- 35. Mr Ottu gave evidence to the panel. Mr Ottu adopted the contents of his written submissions to the HCPC dated 17 December 2018. Mr Ottu gave further oral evidence to the panel and referred the panel to the exhibits he had produced in his Social Worker's Response Bundle. Mr Ottu was cross-examined by Ms Atkin and was asked questions by the panel in order to clarify some parts of his evidence.
- 36. Mr Ottu produced the following exhibits:
 - (i) Email from Mr Ottu to the Social Work England Hearings Team dated 23 May 2022;
 - (ii) Written Submissions from Mr Ottu to the HCPC dated 17 December 2018;

- (iii) Text Messages between Mr Ottu and Medway Council sent between 18 April 2016 and 11 April 2017;
- (iv) Various emails and documents containing positive feedback from his employer, Medway Council;
- (v) Email from Mr Ottu's SW union representative to Medway Council dated 22 April 2016 requesting details of the complaint made against Mr Ottu; and
- (vi) Various emails and documents containing further positive feedback from Mr Ottu's employer, Medway Council.

Findings and reasons on facts:

The Panel's Approach:

- 37. The panel was aware that the burden of proving the facts was on Social Work England. Mr Ottu did not have to prove anything and the individual particulars of the Allegations could only be found proved if the panel was satisfied on the balance of probabilities.
- 38. In reaching its decision the panel took into account the oral testimony of the witnesses who gave evidence, the content of all of the documentary evidence contained in exhibits as well as the oral submissions made by Ms Atkin and Mr Ottu.
- 39. The panel accepted the advice of the legal adviser.
- 40. The panel noted that Social Work England relied on the hearsay evidence of Person A as recorded (i) in notes made by Mr JD and Ms AM of their meeting with Person A on 13 May 2016 and (ii) in notes made in the police crime report by Acting DI PN of a telephone conversation he had with Person A on 25 May 2016. The panel further noted that Mr JD and Acting DI PN had produced these notes as exhibits for the consideration of the panel.
- 41. The panel was mindful that, at a Case Management Meeting held on 26 and 30 May 2022, a panel of adjudicators granted Social Work England's application to admit hearsay evidence from Person A pursuant to rule 32(b)(vii) of the Social Work England (Fitness to Practise) Rules 2019 ("the Rules").
- 42. The panel had regard to rule 29 of the Rules, which provides that case management directions are binding on the parties and on any fitness to practise panel subsequently considering the case unless the panel considers that:
 - (a) there has been a material change of circumstances; or
 - (b) it is not in the interests of justice for that to be the case.

43. The panel was mindful that when considering hearsay evidence, it must apply the principles established in the cases of NMC v Ogbonna [2010] EWCA Civ 7216 and Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin) namely:
- 1.1. *The admission of the statement of an 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 the 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 that there will be some means of testing its reliability.*
44. The panel therefore acknowledged that it should not admit the proposed hearsay evidence as a matter of routine and that it must carefully consider whether it would be fair for it to be admitted. However, the panel noted that there have been no submissions at this final hearing from either Ms Atkin or Mr Ottu that there has been a material change in circumstances or that it is not in the interests of justice for the hearsay evidence of Person A to be admitted.
45. The panel next considered the reasons for the non-attendance of Person A at the Final Hearing. The panel had regard to the chronology and in particular, the fact that Person A did not proactively make a complaint about Mr Ottu, but was in fact invited to a meeting on 13 May 2016 unaware of the investigation that had commenced as a result of the CCTV footage of the events on 5 April 2016 being viewed by the police. The panel noted that Person A made disclosures during that meeting before she was made aware of the content of the CCTV footage. The panel further noted that Person A has never supported a police investigation. The panel also took into account that Person A is described by Mr JD and Acting DI PN as particularly vulnerable and a victim of previous domestic abuse. The panel noted that these matters allegedly occurred six years ago and since then, Person A has made it clear that she does not want to engage with the fitness to practise

investigation. The panel was therefore satisfied that there were good and cogent reasons for Person A's non-attendance at this hearing.

46. In the circumstances, the panel was satisfied that the hearsay evidence of Person A should be admitted and considered by the panel in accordance with the directions made at the Case Management Meeting on 26 and 30 May 2022.
47. It would, however, be a matter for this panel to decide what, if any, weight it should attach to the hearsay evidence of Person A.
48. The panel next considered whether Social Work England had proved, on the balance of probabilities, the facts alleged in allegations 1, 2, 4(a)-4(bb) and 5(a)-5(f).

Allegation 1 (Proved)

49. The panel acknowledged that the hearsay evidence of Person A is the decisive evidence in relation to whether sexual activity with Mr Ottu took place.
50. The panel noted that the hearsay evidence of Person A was not in a formal witness statement from Person A and did not contain a declaration of truth.
51. The panel first considered the hearsay evidence of Person A contained in notes produced by Mr JD. The panel took into account that Mr JD, an Assistant LADO, met Person A together with his colleague Ms AM on 13 May 2016 in the course of his employment, as part of a formal investigation following a referral concerning Mr Ottu from Kent police.
52. The panel was satisfied that at the time of the meeting with Person A, Mr JD was a senior, experienced practitioner who fully understood the seriousness of the allegation made against Mr Ottu and the importance of accurately recording what was said during the meeting with Person A on 13 May 2016.
53. The panel accepted Mr JD's evidence to the panel that he would have made hand-written, contemporaneous notes during the meeting in accordance with his usual practice. The panel also accepted Mr JD's evidence that he typed up those notes when he returned to the office given that it was a Friday and given the nature and seriousness of the allegations.
54. The panel was therefore satisfied that the notes of the meeting with Person A on 13 May 2016, produced by Mr JD as his exhibits, were an accurate record of what Person A said during that meeting.
55. The panel next considered the content of Person A's hearsay evidence recorded in the notes produced by Mr JD.

56. The panel took into account Mr JD's evidence that prior to the meeting on 13 May 2016, Person A had not made any complaint about Mr Ottu. The panel also took into account the fact that prior to the meeting, Person A had not been made aware that Mr Ottu was being investigated or that CCTV footage had been obtained of the events in the multi-storey car park on 5 April 2016. The panel noted that during the meeting, Person A disclosed that she and Mr Ottu kissed and had sex in the back of his car. She said that the first time had been after a court hearing in January 2016 and that they had sex 3 or 4 times on different occasions. The panel noted that Person A was then shown images from the CCTV footage from the multi-storey car park on 5 April 2016 and she confirmed that this was one of the occasions when she had sex with Mr Ottu.
57. In the panel's view, the account of events provided by Person A to Mr JD and Ms AM during the meeting on 13 May 2016, was inherently consistent and was also consistent with the CCTV footage of 5 April 2016.
58. The panel next considered the hearsay evidence of Person A recorded in the police crime report exhibited by Acting DI PN.
59. The panel noted that Acting DI PN, (DC PN at the time), was provided with a copy of the CCTV footage of 5 April 2016 by security staff who had been monitoring the footage as they suspected that a prostitute was operating in the area. The panel further noted that Acting DI PN had identified Mr Ottu and Person A by tracing their car registration details and that this had led him to make a referral to the Council about Mr Ottu on 15 April 2016.
60. The panel also noted that Acting DI PN was the police officer investigating the matter, and that during the course of that investigation, he had a telephone conversation with Person A on 25 May 2016.
61. The panel was satisfied that Acting DI PN, accurately recorded the details of what Person A said during that telephone call in the police crime report, a formal document that may have been used in any future criminal proceedings.
62. The panel carefully considered the hearsay evidence of Person A recorded by Acting DI Newton in the police crime report. The panel noted Person A described first having sex with Mr Ottu in January 2016. The panel further noted that in respect of the occasion when they were both caught on CCTV on 5 April 2016, Person A had stated that it was quite normal for Mr Ottu to call and meet her in a car and have sex.
63. The panel was satisfied that the hearsay evidence of Person A contained in the police crime report produced by Acting DI PN, was consistent with the account she gave to Mr JD on 13 May 2016.

64. The panel noted that Mr Ottu did not cross examine Mr JD or Acting DI PN about the accuracy or content of the notes they had made about what Person A had said to them.
65. In the panel's view the hearsay evidence of Person A appeared to be both credible and reliable. Furthermore, her account was supported by the CCTV footage of 5 April 2016 as well as a court hearing in January and referencing the phrase "you owe me big time" to Mr JD and Acting DI PN.
66. The panel next considered the evidence of Mr Ottu. The panel noted that Mr Ottu has consistently denied the allegation that any sexual activity took place between him and Person A. The panel had regard to the answers Mr Ottu gave during the police interviews on 5 June 2016, 29 June 2016 and 27 July 2016, to Mr Ottu's written submissions to the HCPC dated 17 December 2018, and to the evidence he gave to the panel.
67. The panel considered that although Mr Ottu denied having sex with Person A, his evidence has changed over time. By way of example, the panel noted that during the first police interview on 5 June 2016, Mr Ottu had denied meeting Person A in the car park on 5 April 2016 and that it was only when confronted with the CCTV footage during the second police interview on 29 June 2016 that he admitted that he had met Person A in the car park and that they had both got into the back seat of his car. The panel also noted that during his evidence to the panel, in answer to a question from the panel as to why they had got into the back seat of the car, for the first time Mr Ottu provided the explanation that it was due to difficult/ limited access caused by another parked car. The panel noted that this was different to the explanation provided during the police interview on 29 June 2016. When cross-examined about this discrepancy by Ms Atkin, Mr Ottu stated that he couldn't remember at the time.
68. The panel also considered Mr Ottu's explanation as to why he had met Person A on level 8 of the multi-storey car park rather than at his offices in the building opposite. The panel rejected Mr Ottu's explanation as untruthful. In reaching this decision, the panel also noted that Mr Ottu had not recorded the meeting in the service user case records relating to Person A and her two children.
69. The panel further considered Mr Ottu's claim that this was a false and malicious allegation and that the security staff at the car park had conspired with Person A's ex-partner to fabricate an allegation against him. The panel found that there was no evidence to substantiate this claim and rejected it.
70. The panel noted that in his written submissions to the HCPC dated 17 December 2018, which he adopted as being true during his evidence to the panel, he stated:

"The investigating police officer found common discrepancies and similar circumstances within the allegations, which strengthened their suspicions that Person

A had fabricated the allegation in connivance with her partner. For example, Person A and I did not meet at McDonald's restaurant, neither did I at any time engage in any sexual activity with the accuser during my work with her. During the investigation, investigating officer also found out that she had fabricated a string of claims of sexual assault and rape against innocent men and described her as a "determined liar", hence, the reason for the closure of the case, not because Person A was not prepared to support prosecution."

71. During his evidence to the panel, Acting DI PN was asked about the comments attributed to him. He denied that he had found discrepancies in the evidence that strengthened his suspicion that Person A had fabricated the allegation. Acting DI PN also told the panel that he did not refer to Person A as a 'determined liar' and that it would be unprofessional to do so. Acting DI PN also told the panel that he had not found out that Person A had 'fabricated a string of claims of sexual assault and rape against innocent men'. The panel noted that Mr Ottu did not cross examine or challenge Acting DI Newton in relation to these answers.
72. During Mr Ottu's evidence to the panel, he was asked about the same paragraph in his written submissions. Mr Ottu told the panel this was his opinion and that he had formed it because Acting DI PN had nodded during the police interview when Mr Ottu had mentioned the fact that the mobile phone cell site data did not prove he was in the vicinity of MacDonalds on 26 January 2016 as claimed by Person A.
73. In the panel's view, this explanation from Mr Ottu is simply not credible and the panel was satisfied that Mr Ottu had falsely attributed comments to Acting DI PN that were never made.
74. Having regard to all of the above, the panel was satisfied that it preferred the evidence of Person A to Mr Ottu. Even though Person A's evidence was in the form of reported hearsay, it was credible and consistent with other evidence available to the panel, including the images taken from the CCTV footage. Furthermore, the panel was satisfied that Person A had no reason to make a false or malicious allegation. In contrast, the panel found Mr Ottu's evidence to be inconsistent and untruthful.
75. Accordingly, the panel was satisfied that Mr Ottu engaged in sexual activity with Person A on one or more occasions, including on an occasion in a public car park on 5 April 2016 in the back of his car.
76. The panel therefore found allegation 1 proved.

Allegation 2 (Proved)

77. The panel noted that Mr JD had exhibited the service user case records for Person A and her two children. The panel considered the content of these case records and was

satisfied that there was no reference to a meeting with Person A on 5 April 2016 within them.

78. The panel had regard to Mr Ottu's written submissions and to his oral evidence in which he stated that he had recorded the meeting in the case records. However, when given time by the panel to indicate where in the case notes such a reference could be found, he was unable to do so.
79. The panel noted that Mr Ottu told the panel in his evidence that he had a case load of 44-45 active cases and that his work had been recently audited and that he had been commended by his line manager and others for the quality of his work. Mr Ottu referred the panel to the considerable number of emails and other documents that he had produced in his bundle, all of which provided extremely positive feedback.
80. Mr Ottu also told the panel that due to his high case load, he would sometimes refer to meetings and telephone calls in his assessments. However, he was not able to provide the panel with any document that referred to a meeting between him and Person A on 5 April 2016. The panel noted there were a number of telephone calls that were documented within the case records and considered that Mr Ottu's omission to record these telephone calls may well have been deliberate.
81. The panel therefore found allegation 2 proved.

Allegation 3 (Proved)

82. The panel has already found allegation 3 proved as a result of Mr Ottu's admission.

Allegations 4(a)-4(bb) (Proved)

83. The panel noted that allegation 4 was broken down into 28 particulars labelled (a) to (bb). The panel was mindful that it must reach a separate determination in respect of each of these particulars of the allegation.
84. However, the panel noted that the evidence presented by Social Work England in support of each particular was from the same source, namely Mr JD. The panel accepted Mr JD's evidence that he had requested and obtained a record of the phone calls made on the mobile telephone issued to Mr Ottu by the Council. The panel noted that Mr JD had exhibited that record for the panel's consideration. The panel also noted that Mr JD had produced the case records in relation to Person A and her two children. The panel accepted Mr JD's evidence that he had cross-referenced the mobile phone record with the case records and had identified where there was a call that had not been recorded in the case notes. and that Mr Ottu's defence to each was the same.
85. The panel also noted that Mr Ottu's defence to this allegation was the same in respect of each particular, namely that due to his high case load, it was impractical to record

every individual call in the case records. Mr Ottu stated that he would refer to several calls in a single entry. Mr Ottu also told the panel that it was his practice to sometimes record events in his assessments rather than in the service user case records.

86. The panel cross-referenced the mobile phone record with the available case records and was satisfied that none of the calls listed in particulars (a) to (bb) of allegation 4 were recorded in the case records.
87. Accordingly, the panel found allegation 4 proved in its entirety.

Allegation 5(a)-5(f) (Proved)

88. The panel noted that allegation 5 was broken down into 6 particulars labelled (a) to (f). The panel was mindful that it must reach a separate determination in respect of each of these particulars of the allegation.
89. The panel noted that at the outset of the hearing, Mr Ottu admitted that he had called Person A on 19 April 2016 (allegation 5(b)). The panel further noted that Mr Ottu had admitted this during his police interview and in his written submissions.
90. During his evidence to the panel, Mr Ottu further admitted that he had called Person A on his personal mobile telephone on 18 April 2016 (allegation 5(a)). However, Mr Ottu denied calling Person A on 20 and 25 April 2016 and on 24 and 25 May 2016. Mr Ottu told the panel that the calls must have been made in error or as a result of being 'pocket-dialled'.
91. The panel had the benefit of considering the record of Mr Ottu's personal mobile phone calls produced in the exhibits. The panel noted that Person A had told Mr JD that Mr Ottu had called her several times on 24 May 2016 as corroborated by the record of the telephone calls. The panel was satisfied that calls were made to Person A's mobile phone on 20 and 25 April 2016 and on 24 and 25 May 2016.
92. In light of the above, the panel found allegation 5 proved in its entirety.

Finding and reasons on grounds

93. Having found allegations 1, 2, 3, 4(a) to 4(bb) and 5(a) to 5(f) proved, the panel went on to consider whether these amounted to the statutory ground of misconduct.
94. The panel recognised that the decision on whether or not the statutory ground of misconduct is established is a matter of independent judgement for the panel.
95. In reaching its decision, the panel therefore took into account all of the evidence presented to it at the fact-finding stage.

96. The panel also had regard to its findings and reasons at the fact-finding stage of this hearing.
97. The panel heard submissions made by Ms Atkin on behalf of Social Work England. Ms Atkin addressed the panel in relation to both misconduct and impairment. Ms Atkin also referred the panel to, and adopted, the written submissions contained in Social Work England's Final Statement of Case. Ms Atkin submitted that Mr Ottu's proven conduct amounted to serious professional misconduct. Furthermore, she submitted that the panel should find Mr Ottu's fitness to practise currently impaired.
98. The panel invited Mr Ottu to make submissions in relation to misconduct and impairment but he declined to do so. The panel therefore had regard to the evidence he gave during the fact-finding stage of the hearing and to the material produced by Mr Ottu in the Social Worker's Response bundle.
99. The panel accepted the advice of the legal adviser who referred the panel to the definition of misconduct found in the case of Roylance v General Medical Council (no 2) [2001] 1 AC 311:

"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 practitioner in the particular circumstances."

100. The legal adviser also referred the panel to the decision in the case of Meadow v GMC [2006] EWCA Civ 1319, which made clear that a finding of misconduct by the panel requires serious professional misconduct on the part of a registrant.
101. The panel noted that the applicable rules and standards, in force at the relevant time were those provided by the HCPC, namely: The HCPC Standards of Conduct, Performance and Ethics (2016) and The HCPC Standards of Proficiency for Social Workers in England (2012).
102. The panel was satisfied that Mr Ottu had breached the following parts of The HCPC Standards of Conduct, Performance and Ethics (2016):
- 1.7. You must keep your relationships with service users and carers professional. (In relation to allegations 1 and 5).
 - 6.1. You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible. (In relation to allegation 1).
 - 9.1. You must make sure that your conduct justifies the public's trust and confidence in you and your profession. (In relation to allegation 1, 3 and 5)

- 10.1. You must keep full, clear and accurate records for everyone you care for, treat or provide other services to. (In relation to allegations 2 and 4).

103. The panel was further satisfied that Mr Ottu had breached the following parts of The HCPC Standards of Proficiency for Social Workers in England (2012):

- 2.2. Understand the need to promote the best interests of service users and carers at all times. (In relation to allegation 1).
- 2.3. Understand the need to protect, safeguard and promote the wellbeing of children, young people and vulnerable adults. (In relation to allegation 1).
- 2.9. Recognise the power dynamics in relationships with service users and be able to manage those dynamics appropriately. (In relation to allegation 1).
- 3.1. Understand the need to maintain high standards of personal and professional conduct. (In relation to allegation 3)
- 3.4. Be able to establish and maintain personal and professional boundaries. (In relation to allegations 1 and 5).
- 10.1. Be able to keep accurate, comprehensive and comprehensible records in accordance with applicable legislation, protocols and guidelines. (In relation to allegations 2 and 4).

104. The panel recognised that not every failure to comply with the provisions of the HCPC Standards will necessarily result in a finding of misconduct. However, the panel was satisfied that in this instance, Mr Ottu's conduct fell far below the standards expected of a registered social worker.

105. In the panel's view, the manner in which Mr Ottu failed to maintain appropriate professional boundaries with Person A was particularly serious. The panel has found that Mr Ottu engaged in sexual activity with Person A on more than one occasion including on an occasion in a public car park on 5 April 2016 in the back of his car. The panel was satisfied that Person A was a vulnerable individual and that for the reasons previously given, Mr Ottu's conduct exposed her and her two children to the risk of harm. The panel was also satisfied that in the circumstances of this case, Mr Ottu's conduct placed Person A's children at risk of harm. The panel noted that Person A's two children were subject to Child Protection Plans. The panel further noted that it was Mr Ottu's role to assess Person A's ability to care for the children. The panel considered that Mr Ottu's conduct called in to question the validity of those assessments. The panel was further satisfied that by breaching professional boundaries in this manner, Mr Ottu abused his position of trust as a social worker.

106. The panel considered that Mr Ottu's failure to record the meeting on 5 April 2016 and the telephone contact between himself and Person A in the case records (as found proved in allegations 2 and 4), was also very serious in the context of allegation 1.
107. Furthermore, the panel considered that Mr Ottu's conduct in telephoning Person A from his personal mobile telephone after he had been suspended from work by the Council, was a further example of Mr Ottu's disregard of the requirement for a social worker to maintain appropriate professional boundaries with service users and their families.
108. In the panel's view, an allegation of urinating in a public place, may not of itself always amount to serious professional misconduct. However, the panel was satisfied that in the circumstances of this case it does. The panel also noted that in his evidence to the panel, Mr Ottu accepted that this behaviour did not maintain the high level of conduct expected of a social worker.
109. In the circumstances, the panel was satisfied that Mr Ottu's conduct, as found proved in allegations 1, 2, 3, 4(a) to 4(bb) and 5(a) to 5(f), fell far below the standards expected of him and could properly be characterised as serious professional misconduct.

Finding and reasons on current impairment

110. Having found misconduct, the panel went on to consider whether, as a result of that misconduct, Mr Ottu's fitness to practise is currently impaired.
111. In reaching its decision, the panel was mindful that the question of impairment is a matter for the panel's professional judgement. The panel was required to determine whether Mr Ottu's fitness to practise is impaired as at today's date.
112. The panel took into account all of the evidence that it had received during the course of the proceedings, its previous findings and reasons, the submissions made by Ms Atkin and by Mr Ottu.
113. The panel also took into account the Sanctions Guidance published by Social Work England, which outlined the factors to be taken into account when determining impairment.
114. The panel accepted the advice of the legal adviser.
115. The panel also noted that in addition to public protection, it must also consider whether a finding of current impairment is required in the wider public interest in order to maintain confidence in the profession and to declare and uphold proper standards of professional conduct.
116. In relation to public protection, the panel noted that following the judgement in the case of Cohen v GMC (2008) EWHC 581, the three key questions for the panel to determine were:

- Is Mr Ottu's misconduct remediable;
- Has it already been remediated; and
- Is the misconduct likely to be repeated?

117. The panel was of the view that the answer to the first of these questions was that Mr Ottu's misconduct was attitudinal in nature and therefore difficult to remediate.
118. The panel was satisfied that Mr Ottu, as an experienced social worker, was fully aware of the necessity and importance of maintaining professional boundaries. The panel was further satisfied that Person A was a vulnerable individual. The panel considered that by engaging in sexual activity with Person A, Mr Ottu abused his position of trust as a social worker and took advantage of the power dynamic in their professional relationship. The panel was satisfied that by breaching professional boundaries through engaging in sexual activity with Person A, Mr Ottu exposed Person A and her two children to the risk of harm.
119. The panel was further satisfied that it was inappropriate for Mr Ottu to have stored Person A's mobile telephone number in his personal mobile telephone. Furthermore, the panel considered that Mr Ottu continued to breach professional boundaries when he telephoned Person A from his personal mobile telephone, on more than one occasion, after he had been suspended from work by the Council.
120. Insofar as Mr Ottu's failure to record telephone contact between himself and Person A in the case records is concerned, the panel has already found that this may have been deliberate rather than a record-keeping error. Therefore, the panel also considered that this conduct was attitudinal and therefore difficult to remediate.
121. The panel also considered that as a member of the social work profession, Mr Ottu had a responsibility to conduct himself appropriately at all times, both in his professional and private life. In the panel's view, Mr Ottu's admitted conduct of urinating in a public place, namely the stairwell of the car park, was unacceptable behaviour for a social worker.
122. The panel next considered whether Mr Ottu has already remediated the misconduct. The panel noted that in his evidence to the panel Mr Ottu stated that he has not worked in a social work role for the last six years. The panel acknowledged that it was Mr Ottu's right to deny these allegations, however, the panel noted that Mr Ottu has not provided any evidence of remorse, insight, reflection or relevant training in relation to maintaining appropriate professional boundaries. The panel did, however, note that Mr Ottu had demonstrated some insight in respect of the allegation of urinating in a public place.

123. The panel therefore concluded that in relation to the second question posed in the case of Cohen, Mr Ottu has not remediated his misconduct.
124. The panel then turned to the third question posed in the case of Cohen. The panel noted that the level of insight and reflection demonstrated by Mr Ottu, was central to its determination in relation to the risk of the misconduct being repeated. The panel has no evidence of remediation, insight or reflection from Mr Ottu in relation to the allegations relating to breaching professional boundaries. The panel therefore concluded that there remains a high risk of repetition and a consequential risk of harm to service users.
125. The panel also had regard to the test formulated by Dame Janet Smith in her “Fifth Shipman Report” and applied by the High Court in Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin), to the extent relevant to the facts of the case:
- “Do our findings of fact in respect of the [social worker’s] misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that she/he:*
- (a) has in the past acted and/or is liable to act in the future 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 the medical profession 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?”*
126. The panel was satisfied that for the reasons set out above, Mr Ottu’s conduct placed Person A and her two children, at risk of harm. The panel was further satisfied that Mr Ottu’s conduct has brought the social work profession into disrepute in the eyes of other professionals and the wider public. In the panel’s view, maintaining professional boundaries is a fundamental tenet of the profession. Accordingly, the panel was satisfied that limbs (a) to (c) of the test are engaged in this case both in terms of Mr Ottu’s past actions and future behaviour given the risk of repetition identified by the panel.
127. The panel therefore concluded that a finding of current impairment was required on the ground of public protection.
128. The panel next considered whether a finding of current impairment was also required on wider public interest grounds. In so doing, the panel had regard to the following paragraph in Grant, which dealt with wider public interest considerations:

“In determining whether a practitioner’s fitness to practice is impaired..., the panel should generally consider not only whether the practitioner constitutes a present risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.”

129. In the circumstances of this case, the panel was satisfied that a well-informed member of the public would be very concerned if a finding of impairment were not made given the panel’s previous findings in relation to Mr Ottu’s failure to maintain professional boundaries with Person A. The panel therefore determined that a finding of impairment is necessary in order to maintain public confidence in the social work profession.
130. The panel was further satisfied that a finding of impairment was required to mark the seriousness of Mr Ottu’s misconduct and to declare and uphold professional standards of conduct. In the panel’s view, it is important that it is clear to all social workers that such conduct is not acceptable.
131. The panel therefore found Mr Ottu’s fitness to practise to be impaired by reason of his misconduct.

Decision on sanction

132. Having determined that Mr Ottu’s fitness to practise is currently impaired by reason of his misconduct, the panel next went on to consider whether it was impaired to such a degree that it required action to be taken on his registration by way of the imposition of a sanction.
133. In reaching its decision on sanction, the panel has again given careful consideration to all of the evidence it has received during this hearing, and to its findings at the fact-finding, grounds and impairment stages.
134. Ms Atkin informed the panel that Mr Ottu has no previous regulatory findings recorded against him.
135. Ms Atkin submitted that the appropriate sanction in Mr Ottu’s case was a Removal Order.
136. The panel invited Mr Ottu to make submissions in relation to sanction, however, he declined to do so.
137. The panel accepted the advice of the legal adviser who referred the panel to the Social Work England Sanctions Guidance (2019).

138. The panel reminded itself that the purpose of imposing a sanction is not to punish Mr Ottu. The primary purpose is to protect the public, to uphold proper professional standards and to maintain public confidence in the social work profession.
139. The panel had regard to the Sanctions Guidance and was mindful of the need to ensure that any sanction imposed is both reasonable and proportionate, properly balancing the interests of Mr Ottu against the need to protect the public, uphold professional standards and maintain public confidence in the profession.
140. The panel noted that it should impose no greater restriction on Mr Ottu's ability to practise as a social worker than is absolutely necessary to address the public protection and wider public interest concerns identified by the panel.
141. The panel noted that it must therefore consider each of the available sanctions in ascending order before determining the appropriate and proportionate sanction.
142. Before considering the individual options open to it, the panel identified what it considered to be the relevant aggravating and mitigating factors in the case.
143. In relation to aggravating factors the panel identified the following:
- Mr Ottu's conduct towards Person A involved a serious abuse of a professional position of trust in order to engage in sexual activity with her;
 - Mr Ottu was aware of Person A's vulnerability;
 - Mr Ottu's actions exposed Person A and her two children, who were subject to Child Protection Plans, to the risk of harm;
 - The misconduct was not an isolated incident or lapse of judgement. Although Mr Ottu's actions only related to Person A, Mr Ottu engaged in sexual activity with her on more than one occasion;
 - The panel was satisfied the Mr Ottu's conduct was not spontaneous, on the contrary, it involved a level of planning;
 - During the hearing, Mr Ottu sought to mispresent what Acting DI PN had said to him during the police investigation. In his written submissions to the HCPC, Mr Ottu stated that Acting DI PN had described Person A as a "*determined liar*" and as someone who "*fabricated a string of claims of sexual assault and rape against innocent men*". In his oral evidence to the panel, Mr Ottu adopted these written submissions. When Acting DI PN gave evidence, he stated that he had not made these serious allegations against Person A. Mr Ottu did not challenge Acting DI PN about this. The panel was satisfied that Mr Ottu had

deliberately sought to mispresent Acting DI PN in an attempt to discredit Person A; and

- Mr Ottu has not demonstrated any evidence of remorse, insight or reflection into his misconduct.

144. In respect of mitigating factors, the panel identified the following:

- Mr Ottu has no previous regulatory findings recorded against him;
- There has been a significant delay in this matter reaching a Final Hearing. The allegations relate to events that occurred in 2016;
- Mr Ottu has engaged in the fitness to practise process and has attended the Final Hearing;
- Mr Ottu admitted allegation 3 and made partial admissions to allegation 5; and
- Mr Ottu provided a number of positive testimonials in relation to his previous good practice as a social worker.

145. The panel next considered what, if any sanction it should impose.

No further action

146. The panel first considered whether this was an appropriate case for it to take no further action. The panel took into account the Sanctions Guidance. This states that this outcome *“is likely to be exceptional and would be in cases where the finding of impairment itself is enough to protect the wider public interest.”*

147. The panel was satisfied that the misconduct found proved in this case was too serious for this to be an appropriate or proportionate course of action. In the panel’s view, it would not protect service users from the risk of harm, nor would it meet the wider public interest concerns identified by the panel.

Advice Order or a Warning Order

148. The panel next considered whether an Advice Order or a Warning Order would be an appropriate sanction. The panel noted the Sanctions Guidance, in particular paragraph 76, which provides:

“These outcomes do not directly restrict practise and they cannot be reviewed before they expire, except in the case of a warning if new concerns are raised. They are therefore not appropriate where there is a current risk to the public.”

149. Having regard to this guidance, and the panel's previous finding that there is a risk of repetition of the misconduct and a consequential risk of harm to service users, the panel determined that neither of these orders would be appropriate in the circumstances of the case.

Conditions of Practice Order

150. The panel next considered the imposition of a Conditions of Practice Order.
151. The panel had regard to the Sanctions Guidance in relation to the imposition of a Conditions of Practice Order.
152. The panel noted that paragraph 84 of the Sanctions Guidance provides:
- "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."*
153. The panel has found that Mr Ottu's misconduct is attitudinal in nature and that there is a high risk of repetition and a consequential risk of harm to service users. The panel therefore concluded that it was not possible to formulate workable conditions of practice that would provide an adequate level of public protection.
154. Furthermore, given the nature and gravity of the misconduct found proved, which involved a serious abuse of a professional position of trust in order to engage in sexual activity with Person A on more than one occasion, the panel was not satisfied that a Conditions of Practice Order would meet the wider public interest concerns that it has identified in this case.
155. The panel therefore concluded that a Condition of Practice Order was not an appropriate sanction in the circumstances of this case.

Suspension Order

156. The panel next gave consideration to the imposition of a Suspension Order.
157. The panel had regard to paragraph 96 of the Sanctions Guidance which states:
- "...If the suspension is aimed primarily at maintaining confidence in the profession or setting the professional standards to be observed, then a sanction of suspension up to one year may be appropriate. Given the risk of deskilling, decision makers should consider whether a case warranting a period of suspension longer than one year on the grounds of public confidence might be more appropriately disposed of by means of a removal order."*

158. The panel also took into account the Sanctions Guidance in relation to cases involving abuse of trust and sexual misconduct. The panel noted that paragraphs 102, 103 and 105 provide:

“Social workers hold privileged positions of trust. Their role often requires them to engage with people over extended periods when those people may be highly vulnerable. It is essential to the effective delivery of social work that the public can trust social workers implicitly. Any abuse of trust by a social worker is a serious and unacceptable risk in terms of public protection and confidence in the profession as a whole.”

“Decision makers must assess each case on its merits and must apply proportionality considering any mitigating or aggravating factors present. However, most cases of serious abuses of trust are likely to require suspension or removal of registration. Decision makers should provide detailed reasoning to explain lesser sanctions in such cases.”

“Abuse of professional position to pursue a sexual or improper emotional or social relationship with a service user or a member of their family or a work colleague is a serious abuse of trust. Many people will be accessing social care for reasons that increase their vulnerability and that of their family. Pursuit of a sexual or improper emotional or social relationship with a vulnerable person is likely to require a more serious sanction against a social worker.”

159. Taking this guidance into account, the panel concluded that Mr Ottu’s misconduct was of the utmost seriousness for the following reasons:

- The panel has found that he seriously abused his position of trust in order to engage in sexual activity on more than one occasion with Person A, a person whom he knew to be vulnerable. In so doing, Mr Ottu exposed Person A and her two children, who were subject to Child Protection Plans, to the risk of harm.
- The panel had regard to the evidence of Mr JD in his letter to Social Work England dated 28 August 2021, *“In my experience as a field social worker over 37 years, I do not recall having to, or the need to, contact a specific client by phone as often as is indicated in this situation. Furthermore, any contact, or attempted contact with a client needs to be recorded on file...”*. In the panel’s view, Mr Ottu’s omission to record his meeting with Person A on 5 April 2016 in the case notes, together with his failure to record telephone contact with Person A, was indicative of Mr Ottu attempting to cover his tracks.
- The panel was satisfied that Mr Ottu’s conduct in telephoning Person A, from his personal mobile telephone, on several occasions after he had been

suspended from work by the Council, amounted to a further flagrant breach of professional boundaries. The panel noted the opinion of Mr JD in his letter to Social Work England dated 28 August 2021, *“In my opinion it is not acceptable to save a client’s phone details to a social worker’s own personal phone, why would a social worker want to do this when they would have been provided with a ‘work’ phone by their employer, for work with clients. One has to question why a social worker wants to, or needs to save a client’s personal details, such as their phone number, to their own personal equipment, and for what purpose?”*.

- The panel had no evidence of remediation from Mr Ottu and no evidence of remorse, insight or reflection from him.

160. The panel took into account the fact that Mr Ottu does not have any previous regulatory findings recorded against him, and that he has produced a number of positive testimonials. However, in the panel’s view, professional competence cannot mitigate the serious misconduct found proved in this case.
161. Taking all of the above factors into consideration, the panel determined that a Suspension Order would not be sufficient to protect the public and meet the wider public interest concerns identified by the panel.
162. The panel therefore went on to consider the imposition of a Removal Order. The panel noted the Sanctions Guidance that *“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.”*
163. 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 understood that a Removal Order will prevent Mr Ottu from working as a social worker and could therefore have a detrimental effect on his personal and financial interests. However, the panel was satisfied that on balance, the significant risks to the public and the wider public interest are such that they override Mr Ottu’s interests in this regard.
164. The panel therefore decided that a Removal Order was the appropriate and proportionate sanction in this case.

Proceeding in the absence of Mr Ottu

165. Prior to announcing its decision on sanction on day five of the Final Hearing (1 July 2022), the Hearings Officer informed the panel that she had received an email from Mr Ottu at 11:48am on 1 July 2022, in which he stated:

“Unfortunately, I’m seriously down with Fever and feeling very unwell, hence, I won’t be able the Hearing Room this afternoon.

Apologies for this!”

166. The Chair of the panel informed Ms Atkin that the panel had already reached and drafted its decision on sanction and was ready to hand it down. The Chair of the panel informed Ms Atkin that the panel had decided to impose a Removal Order.
167. Ms Atkin invited the panel to consider exercising its discretion to proceed with the remainder of the hearing in the absence of Mr Ottu.
168. The panel accepted the advice of the legal adviser who referred it to rule 43 of the Rules and to the guidance provided by the House of Lords in the case of R v Jones [2002] UKHL 5 and by the Court of Appeal in the case of Adeogba v GMC [2016] EWCA Civ 162, which makes clear that the discretion whether or not to proceed must be exercised having regard to all the circumstances of which the panel is aware, with fairness to the social worker being a prime consideration, but balancing that with fairness to the regulator and the interests of the public.
169. The panel noted that Mr Ottu attended the Final Hearing on days one to four, and that he gave evidence and made submissions at the fact-finding stage. The panel also noted that Mr Ottu chose not to make submissions at the grounds, impairment and sanctions stages of the Final Hearing. The panel further noted that although Mr Ottu has informed Social Work England that he is unwell and therefore unable to attend the hearing today, he has not requested an adjournment.
170. The panel next considered the potential prejudice to Mr Ottu if it exercised its discretion to proceed with the remainder of the Final Hearing in his absence. The panel had regard to the stage reached. The panel has already made its decision on sanction. The panel was therefore satisfied that Mr Ottu would not be prejudiced if it were to formally announce the final order and hand down the reasons for its decision. The panel also had regard to the fact that it has not yet heard an application from Ms Atkin in relation to the making of an interim order to cover the statutory appeal period before the final order comes into effect. If the panel were to proceed with the remainder of the Final Hearing in the absence of Mr Ottu, he would not have an opportunity to make submissions to the panel and to that extent would be prejudiced.
171. Having considered all of these matters, the panel decided to proceed with the remainder of the Final Hearing in the absence of Mr Ottu. The panel was satisfied that having determined that the appropriate sanction in this case is a Removal Order, the public interest in protecting the public by proceeding to hear the application for an interim order outweighs any prejudice to Mr Ottu.

Interim order

172. Ms Atkin made an application for an interim suspension order for a period of 18 months, in case Mr Ottu exercises his right to appeal to the High Court against the decision of this panel to impose a Removal Order.
173. The panel accepted the advice of the legal adviser who advised the panel that in accordance with Paragraph 11 of Schedule 2 of The Regulations, the panel may only make an interim order if it considers it is necessary for the protection of the public or in the best interests of the Social Worker.
174. For the reasons set out in the substantive decision, the panel was satisfied that there remained an on-going risk to service users and therefore concluded that an interim order was necessary to protect the public.
175. Furthermore, for the reasons set out in its substantive decision the panel was also satisfied that an interim order is necessary in the wider public interest. The panel was satisfied that an ordinary member of the public would be concerned to learn that Mr Ottu was entitled to practise without restriction if an interim order was not made to cover the statutory appeal period.
176. The panel first considered whether an interim conditions of practice order would be the appropriate and proportionate interim order. However, for the same reasons as set out in its substantive decision, that panel concluded that it was not possible to formulate workable conditions of practice that would adequately protect the public or meet the wider public interest concerns previously identified by the panel.
177. The panel therefore concluded that an interim suspension order was necessary for the protection of the public including the wider public interest.
178. The panel gave consideration to the length of the interim suspension order and concluded that a period of 18 months was appropriate. In the panel's view, this would allow sufficient time for an appeal to be heard by the High Court, if Mr Ottu exercises his right to appeal.
179. The panel therefore decided to impose an interim suspension order for a period of 18 months under paragraph 11(1)(b) of Schedule 2 of The Social Workers Regulations 2018.
180. If there is no appeal against the final order, the interim suspension order will expire when the 28-day period for appealing the final order expires. If there is an appeal against the final order, the interim suspension order will expire when the appeal is withdrawn or otherwise finally disposed of.

Right of Appeal

181. 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.
182. Under paragraph 16(2) of 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.
183. 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.
184. 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

185. 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.
186. 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.