

Social Worker: Pankaj Gupta

Registration Number: SW25378

Fitness to Practise:

Final Hearing

Dates of hearing: 13-30 September 2021; 17-21 January 2022;
27 June – 29 July 2022 (excluding 6 July); 2-5 August 2022

Hearing Venue: Remote

Hearing outcome: Removal Order

Interim order: Interim suspension order 18 months

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Gupta attended and was not represented.
3. The hearing was held jointly with Ms Panwar who attended until the conclusion of Social Work England's case but not thereafter. She was not represented.
4. Social Work England was represented by Ms Sophie Sharpe, instructed by Capsticks LLP.

Adjudicators	Role
Debbie Hill	Chair
Michael Branicki	Social Work Adjudicator
Angela Duxbury	Lay Adjudicator

Agnes De Biase: September 2021 and January 2022; Harry Frost: June – August 2022	Hearings Officer
Kathryn Tinsley	Hearing Support Officer
Lucia Whittle-Martin	Legal Adviser

Allegation(s)

Head of Charge 1: *Between June 2014 and 13 April 2018, you allowed Person 12, a support worker and/or a student social worker to complete work and sign this off as a Supervising Social Worker, and/or complete work without the required qualifications or experience.*

Head of Charge 2: *You allowed a psychology student, Person 13, who had not completed a social work qualification, to complete Form F assessments on or around the following dates:*

- a. November/December 2013
- b. September 2014;
- c. July 2015;
- d. October 2016/March 2017.

Head of Charge 3: *On an unknown date, you allowed a law student, Person 14, who had not completed a social work qualification, to complete a Form F assessment.*

Head of Charge 4: *You completed and/or approved inadequate matching checklists that did not consider the relevant risk factors in relation to the following children:*

- a) *Child O and/or Child P's matching checklists dated 16 June 2016 were inadequate, in that;*
 - i. *The matching did not consider the carer's ability to meet the needs of Child O and/or Child P given the carer already had three children.*
- b) *Child R's matching checklist dated 4 January 2017 was inadequate, in that;*
 - i. *The matching did not consider the carer's experience in dealing with Child R's history of self-harming.*
- c) *Child B's matching checklist dated 16 June 2016 was inadequate, in that;*
 - i. *The matching did not consider how the carer's skills and knowledge would meet the needs of Child B.*
- d) *Child A's matching checklist dated 1 June 2017 was inadequate in that;*
 - i. *Matching was primarily based on language and religion.*
 - ii. *The carers gaps in knowledge and skills were not identified in relation to child A's complex emotional needs and learning difficulties*

Head of Charge 5: *Between July 2014 and 13 April 2018, you did not ensure that risk assessments were adequately completed and/or updated by the supervising social workers in one of more of the cases identified at Schedule 1;*

<u>Schedule 1</u>	
1	Child CN
2	Child EN
3	Child AL
4	Child MH
5	Child SM
6	Child AS
7	Child NS
8	Child RR
9	Child CM
10	Child WK
11	Child IRP
12	Child IQP

Head of Charge 6: *Between 13 October 2010 and 13 April 2018, you did not ensure that agency staff and/or foster carers identified in Schedule 2 had the appropriate training to take action in response to risk factors*

<u>Schedule 2</u>	
1	Foster carer AM

2	Foster carer MC
3	Foster carer SA
4	Foster carers FD and MH
5	Foster carer NS
6	Foster carer AA
7	Foster carer TT
8	Foster carers MV and SV
9	Foster Carers NP and MP
10	Foster Carer BK
11	Foster carer HE
12	Agency staff

Head of Charge 7: *Between 13 October 2010 and 13 April 2018, you did not ensure that adequate recruitment checks were made for staff, carers and/or panel members as identified at Schedule 3. In that you;*

- a. Did not check the identities of individuals and/or*
- b. Did not check their professional qualifications, and/or;*
- c. Did not obtain a full employment history and/or;*
- d. Did not make up to date barring checks.*

<u>Schedule 3</u>	
1	Caroline Jackson
2	Ana Luise Torres
3	Prabhu Dhanaraj

4	Christie Loy
5	Krishna James
6	Person 13
7	Person 14
8	Foster Carers

The matters set out at paragraph 1-7 above amount to misconduct and/or lack of competence.

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

Preliminary matters

Admissions

5. At the start of the hearing, Mr Gupta entered formal admissions to Allegations 2 and 3. However when giving evidence it became clear that he did not in fact admit these allegations. Therefore, his admissions were put to one side and the panel reached its decisions on the basis that Allegations 2 and 3 were denied.

Statement of PD and email from Person 12

6. Prior to the start of the hearing two documents, namely:

- (a) a statement provided by Supervising Social Worker, PD; and
- (b) an email, dated 26 July 2021, sent by Person 12

were included in Mr Gupta and Ms Panwar's hearing bundles with the agreement of Ms Sharpe on the understanding that both PD and Person 12 were to be called as witnesses. It was clarified that if they did not attend as witnesses their evidence was not agreed.

Application to adduce the Social Work England Case Examiners Decision for PD

7. At the close of Mr Gupta's case, Ms Sharpe applied to place the case examiners decision for PD before the panel. This was on the basis that PD's witness statement

had been included in Mr Gupta's bundle on the understanding that he would be giving evidence, but he had not been called. Further, Mr Gupta had asserted in evidence that a case brought against PD by Social Work England had been dropped or not proceeded with whereas the reality was that PD had accepted the allegation brought against him, had accepted that his fitness to practise was currently impaired, and this had resulted in an accepted disposal, as set out in the case examiner's decision.

8. Mr Gupta did not object to this application.
9. The panel acceded to the application on the basis that there was no objection to it and it was important for the panel to be provided with a full and accurate picture of the position regarding PD in the circumstances.

Recalling witness MM

10. After the commencement of Mr Gupta's evidence, Ms Sharpe applied to recall witness MM. She submitted that evidence had been given by Mr Gupta which had not been challenged in cross-examination and could not have been anticipated. The evidence had not been referred to in Mr Gupta's hearing statement and contrasted with Paragraph 11 of an agreed pre-hearing statement of agreed facts, which stated:

"The RI is appointed by the Provider and their role is to oversee the agency and its practice, including compliance with the Regulations"
11. Ms Sharpe submitted that Mr Gupta now challenged the suggestion that it was his remit as Responsible Individual (RI) to oversee the agency and its practice, and to ensure compliance with the Regulations. He now suggested that this was the responsibility of the Registered Manager (RM), Ms Panwar, and that his role was confined to business and financial matters.
12. Mr Gupta opposed the application, arguing that it had been Ms Sharpe's responsibility to call her evidence earlier. He added that if MM was to be recalled, he would like this to take place at the conclusion of his evidence, and not mid-way through.
13. The panel acceded to Ms Sharpe's application. The panel accepted that Ms Sharpe had been taken by surprise by matters now relied on by Mr Gupta which had not been raised earlier by him in cross-examination and appeared to have been agreed in the statement of agreed facts. The issue was highly material. In those circumstances it was in the interests of justice to allow MM to be recalled.
14. The panel was informed that the only day when MM was available for recall was on a date when Mr Gupta would still be giving evidence. The panel understood that it was highly undesirable to interpose her, but balanced the likely disruption caused to

Mr Gupta against the need to complete the case within the current listing window, and concluded that it was in Mr Gupta's interests, and in the overall interests of justice, to interpose MM's evidence.

Identification schedule

15. The following children referred to in Schedule 1 were provided with different references in the allegations referred by the HCPC's Investigating Committee Panel (ICP):

- Child MH referred to as Child A;
- Child SM referred to as Child K;
- Child AS referred to as Child O;
- Child NS referred to as Child P;
- Child RR referred to as Child B;
- Child WK referred to as Child R;
- Child IRP referred to as Child C;
- Child IQP referred to as Child D.

Proceeding in the absence of Mr Gupta

16. Mr Gupta attended the entirety of the hearing but did not attend on 4 August 2022 when the panel was due to hand down its decision on impairment.

17. Mr Gupta had sent an email on the morning of 4 August 2022 to Social Work England's hearings officer stating:

"Morning. I am unable to attend today's meeting due to my business meetings in London. Apologies".

18. The panel adjourned for an hour whilst an email was sent to Mr Gupta to warn him that an application was likely to be made to proceed in his absence. No response was received from Mr Gupta.

19. Ms Sharpe applied to proceed in the absence of Mr Gupta.

20. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. The advice included reference to Rule 43 and the cases of *R v Jones [2003] UKPC* and *General Medical Council v Adeogba [2016] EWCA 162 Civ.*

21. The panel decided that Mr Gupta had voluntarily absented himself from the hearing. He had not provided the panel with prior warning that he would not be attending. His email clearly indicated that he did not intend to attend. He had not requested an adjournment. The panel concluded that it was unlikely that he would attend were the panel to adjourn to a later date as he was fully aware of the process, the hearing having run for several weeks, and having included a successful application to proceed in the absence of Ms Panwar, in the presence of Mr Gupta. Throughout the proceedings, significant accommodation had been made to facilitate Mr Gupta's attendance. This included, but was not limited to: not sitting for a full day of the hearing, to accommodate a visit from Mr Gupta's family members travelling to the UK from India; not sitting for a half day immediately prior to handing down the decision on the facts having heard that Mr Gupta's car had broken down on the motorway and that he was unable to attend; and allowing Mr Gupta to join the hearing late on a routine basis, frequently after being chased by telephone by the hearings officer.
22. Mr Gupta had indicated at an early stage of the resumed hearing that he would be unable to attend the hearing any later than 5 August 2022. The panel now had two days left in which to complete the case. The case had commenced in September 2021 and had already adjourned part-heard on two occasions. The panel concluded that it was in the public interest, and in Mr Gupta's interests, for the hearing to proceed in his absence so that it could conclude within the allotted listing time.
23. Accordingly the panel decided to proceed in the absence of Mr Gupta.
24. On the evening of 4 August 2022, at 23.29pm, Mr Gupta sent an email to the Social Work England hearings support officer stating:
- "Dear Kathryn*
- Apologies, was not able to come back earlier. Had some important manufacturing contract to be signed before I head home this weekend.*
- I am available tomorrow, if this is any good.*
- Meanwhile, on mention of not CPD etc I would like to share certificates for the [sic] courses completed and also paperwork to advise that I had joined level 5 diploma in health [sic] and social care in 2020. I was in process to submit my first assignment when changes were made to my conditions due to which I had to abandon it, as level 5 needed social work work [sic].*
- Kindly advise for tomorrow.*
- Thanks and Regards*
- Pankaj Gupta"*
25. By the time this email had been received, the panel had reached its decision on Sanction. However Mr Gupta was informed by email that the documentation supplied by him that morning would be placed before the panel, and the panel

would reconvene to reconsider its decision in light of the documentation that had been provided by him. This the panel did.

26. Mr Gupta attended on 5 August 2022, by which time the panel had reached its decision on sanction and had decided to impose an interim order. He was present to hear the panel's decision to impose an interim order. He made no further representations.

Summary of Evidence

BACKGROUND

27. Future Fostering Limited (FFL) was registered with Ofsted as an Independent Fostering Agency (IFA) on 13 October 2010. It had two joint directors: Ms Panwar, who was the Registered Manager (RM), and Mr Gupta, who was the Responsible Individual (RI).
28. The Fostering Services (England) Regulations 2011 (the Regulations) and the National Minimum Standards (NMS) set out the responsibilities and standards required of an RI and RM within the context of a fostering agency.
29. FFL had been subject to two full inspections in January 2012 and October 2014. The outcome of both inspections resulted in an overall rating of "good".
30. On 11 September 2017, Ms Panwar emailed Ofsted raising a complaint about Mr Gupta.
31. As a result of this complaint, a monitoring visit was carried out at FFL's premises on 26 September 2017 by Ofsted inspector, HL, and her colleague, SW. HL expressed concerns regarding the lack of day-to-day management and supervision, lack of training, and the poor relationship between Mr Gupta and Ms Panwar. It was suggested that there was no clear leadership or defined job roles; the care records were not all stored at the office, or accessible to those supervising the placements; there was a lack of evidence of developmental or operational business plans and a lack of robust recruitment procedures or training for foster carers.
32. On 24 October 2017, Mr Gupta emailed Ofsted raising a complaint about Ms Panwar.
33. A providers meeting took place on 28 November 2017 which both Mr Gupta and Ms Panwar attended. They were seen separately. According to HL, various concerns emerged including the understanding held by the RM and the RI of their respective responsibilities.
34. Between 5 and 7 December 2017, HL carried out a further monitoring visit together with another Ofsted inspector, MM. Both inspectors reported concerns.

35. On 27 December 2017 a Notice of Proposal to cancel registration to carry on an independent fostering agency under section 17 of the Care Standards Act 2000 was issued.
36. On 23 January 2018, a Notice of Proposal to cancel the registration of an independent fostering agency manager was issued under section 17 of the Care Standards Act 2000.
37. A further monitoring visit took place between 24 and 26 January 2018, attended by HL and MM, to review whether any progress had been made by FFL to comply with the Regulations. HL and MM formed the view that insufficient improvements had been made since the December 2017 visit.
38. On 29 January 2018 the decision was made to issue a Notice of Proposal to cancel the registration of FFL.
39. On 29 January 2018, Ms Panwar submitted a Voluntary Cancellation Form in relation to her position as RM on health grounds, which was accepted by Ofsted on 14 February 2018.
40. It was Social Work England's case that until that time Ms Panwar remained in post as RM of FFL and was therefore responsible for ensuring progress and compliance with the Regulations together with the RI, Mr Gupta.
41. On 2 February 2018 representations were received from solicitors instructed on behalf of FFL in response to the Notice of Proposal to cancel the registration of FFL. The representations asserted that FFL had insight into its failings and had taken steps to remedy the concerns.
42. On 16 February 2018, Ofsted received an email from Mr Gupta stating that FFL intended to cease carrying out the functions of a fostering agency from 1 March 2018. Notwithstanding this email, as FFL had not withdrawn their challenge to the Notice of Proposal the matter proceeded to a Representation Panel.
43. On 26 February 2018, a Representation Panel issued a 'Notice of Decision to cancel registration to carry on an independent fostering agency' under section 19 of the Care Standards Act 2000. This came into effect on 14 May 2018. FFL did not appeal the decision.

EVIDENCE CALLED/PROVIDED

44. Social Work England relied on documentary evidence exhibited by MM and HL which included documentation obtained from FFL, Mr Gupta, Ms Panwar and solicitors acting on behalf of FFL. The following witnesses were called to give evidence:

(a) MM – Ofsted inspector conducting monitoring visits in December 2017 and January 2018;

(b) HL – Ofsted inspector conducting monitoring visits in September 2017, December 2017 and January 2018.

45. Mr Gupta relied on documentary evidence which included a 22 August 2018 monitoring report from the London Borough of Waltham Forest, a statement from an FFL supervising social worker, “PD”, an email from a further employee of FFL, “Person 12” and a number of testimonials. He also relied on his own written statement and gave oral evidence before the panel.

THE MAIN ISSUES: WHOSE RESPONSIBILITY?

46. The main argument put forward by Mr Gupta in oral evidence when responding to the allegation as a whole was that his responsibilities as RI were confined to business and finance. He argued that Ms Panwar, the RM, was responsible for managing front line work. He disagreed with the suggestion that the Regulations dictated otherwise and argued that in any event there had been an agreement reached within FFL, between himself and Ms Panwar, that his role was to be confined to business and finance. He also argued that social workers employed by the agency, such as PD and Person 12, were individually responsible for adhering to the relevant regulations.

Social Work England’s case regarding “Responsibility”

47. Social Work England relied on MM’S evidence that both the RI and the RM were jointly responsible for the agency’s compliance with the Regulations and the NMS. Social Work England argued that the RM is responsible in the capacity of Registered Manager, and the RI is responsible for supervising the management of the agency, including the RM, and overseeing the agency’s practice, ensuring the agency’s compliance with regulatory requirements.

48. The Regulations together with the NMS outline the roles and responsibilities of the RM and the RI. The RI is appointed by the Provider as the representative of the Provider. The RI’s role is to oversee the agency and its practice, including compliance with the Regulations. The RM is appointed by the Provider to “manage” the service and also ensure compliance with the Regulations.

49. The Regulations define:

- a “Registered Manager” (RM) as “a person who is registered under Part 2 of the 2000 Act as the manager of the fostering agency.

- a “Registered Person” in relation to a fostering agency, as “a person who is the registered provider or the registered manager of the fostering agency”
- a “Registered Provider” in relation to a fostering agency, as “a person who is registered under Part 2 of the 2000 Act as the person carrying on the fostering agency”
- a “Responsible Individual” as set out in Regulation 5(1)(d).

50. Regulation 5(1)(d) states:

“A person must not carry on a fostering agency unless –

(d) in the case of an organisation carrying on a fostering agency, where the organisation has given notice to the Chief Inspector of the name, address and position in the organisation of an individual (the RI) who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the fostering agency, the responsible individual, satisfies the requirements of paragraph (2) as to fitness”.

Mr Gupta’s case regarding “Responsibility”

51. In Mr Gupta’s “Statement for Final Hearing” he stated:

“I worked for Future Fostering as a Director and Responsible Individual since its inception in February 2010 until its closure in February 2018, as a result of Ofsted monitoring visits in 2017-18 following the on-going conflict between the Registered Manager (Savitri Panwar) and I we both were business partners of the company. the conflict perhaps affected the day to day functions of the agency at certain levels.

At the time of its closure Future Fostering was a small agency with around 35 foster carers with around 50 children in placement. At the time of the monitoring visit the agency was categorised by Ofsted as ‘Good’, last inspection was in 2014.

At the time of closure Future Fostering had in employment two qualified SSWs, one family support worker (pursuing Master’s Degree in Social Work from Open University), one administrator, Fostering Manager and Responsible Individual. Also, two consultants were advising the management on the day to day functioning of the organisation. One of the consultants had been an Ofsted Inspector in the past and had successfully run a fairly good size fostering agency and had sold the business recently before working solely as a consultant. Future Fostering was not the only agency he was working with as a consultant.

During the monitoring visit, the Ofsted inspectors found regulation breaches. Inspectors also audited less than 10 case files and raised concerns based on the

available information on the files. Considering that the Agency had around 50 children in placement at the time and that no concerns were raised about rest of the children / cases/ files it probably will be fair to say that everything was in order with those cases.

FF started using a new database system from May-June 2017. Unfortunately, not all the files had transferred to the new data base from the old IT system due to technical issues and software compatibility reasons. The IT team who had installed the database were trying to resolve the issues.

Before the Ofsted's intervention Future Fostering had a monitoring visit by London Borough of Waltham Forest representatives, on 22.08.2017. Also attached for reference is the monitoring visit report from London Borough of Bexley, dated 20.01.2015.

As a team, we were doing good work at the field level to support the foster carers and foster children, but SSWs lacked in robust recording to evidence the good work that we did at the field level. As a result, we were not able to provide the evidences to the Ofsted inspectors during the monitoring visits, which lead to raise concerns on my practice. The Ofsted monitoring visits were the big eye opener for me which helped me to identify the areas that I lacked in social work especially the importance of robust monitoring in recording.

The main areas of concerns raised on the monitoring visit report were on Risk assessment, Safer caring policy, failure to request for return to home interviews and matching. There were risk assessments in place which had the information of the areas of risk identified and what action the foster carers should take when the concern arises. SSWs regularly had discussions with foster carers regarding the strategies to deal with the concerns and risks but the strategies were not integrated with in the risk assessments report. However, the strategies discussed during home visits were recorded in the monthly supervision reports.

As far as the allegations are concerned I would only like to place some of the facts. I must assure that there is no attempt to refute or argue on anything".

52. In oral evidence Mr Gupta referred to Regulation 8(1), which states:

"The Registered Provider and Registered Manager must, having regard to

(a) the size of the fostering agency, its statement of purpose and the numbers and needs of the children placed by the fostering agency and

(b) the need to safeguard and promote the welfare of the children placed by the fostering agency, carry on or manage the fostering agency (as the case may be) with sufficient care, competence and skill."

53. Mr Gupta argued that when considering “*the size of the fostering agency*”, FFL was a small agency. He said that FFL comprised: two qualified social workers, namely PD and one other; one support worker, namely Person 12; one administrator, CJ; two consultants, HW and R; the RM, Ms Panwar, and the RI, himself.
54. Mr Gupta stated that Ms Panwar was the RM and had more experience of social work, fostering and managing. He said she “*led the ship*” whilst he was in charge of business recruitment and finance. They did not interfere with each other’s roles.
55. Mr Gupta accepted that both the RI and the RM were the representing officers of the Provider. He agreed that in principle they were jointly responsible. However, he said that in the case of FFL, the RI and RM were representatives each with their own clearly defined responsibilities, which the organisation had delegated. He said that he believed there had been an employee handbook in which the distinction between the RI and RM for FFL had been set out.
56. Mr Gupta did not accept that it had been his responsibility to ensure compliance with Regulation 20, which states that the Provider must not employ a person to work for the purposes of the fostering service unless that person is fit to do so, including having the necessary qualifications, skills and experience. Nor did he accept that it had been his responsibility to ensure compliance with Regulation 21(4), which states that the Provider must ensure that all persons employed by them receive appropriate training, supervision and appraisal.
57. Mr Gupta claimed that all his staff were of integrity and had the necessary qualifications and training. However, he also claimed that it was not his responsibility to ensure that this was so, and that it was Ms Panwar’s responsibility. He said that he would sit in on interviews for potential employees, but all other frontline work was carried out by Ms Panwar.
58. In response to MM’s evidence that Mr Gupta had been interviewed for the role of RI to establish his knowledge of the relevant regulations, Mr Gupta said that he merely attended a brief 15-minute meeting whereas Ms Panwar attended an interview which lasted for an hour or so.
59. Mr Gupta was asked why, in the course of the meeting with HL on 28 November 2017, Mr Gupta had said “*I supervise the RM*”. He said that that was a long time ago and he could not now remember whether he supervised Ms Panwar.
60. Mr Gupta claimed that the outcome of the Ofsted report was decided in advance. He said it was a paper exercise. He said there was no attempt to visit or speak to foster carers or the children. It was presumed that the children had been harmed or that there were safeguarding concerns. However, none of the children ever suffered in the organisation. The foster carers and children were happy.

61. Mr Gupta accepted that FFL had challenges in recruiting staff. He said that this was not unusual for an organisation. The agency had a licence to employ staff from overseas, and some of the staff hired had many years' experience as social workers.
62. Mr Gupta said that he did not hold any cases. He did not work with the foster carers or children directly. He did not write any reports.
63. Mr Gupta claimed that at the time of the monitoring visits FFL had a new IT system which meant that the database was not properly in place. He said that he informed the Ofsted inspectors of this. He said that the problem was that information that was entered onto the database failed to show after a period of time. He said that an IT company had been employed who were in the process of trying to resolve this issue at the time of the visits. All employees were provided with company laptops, and they were asked to transfer their material over to a back-up file in the office. However, the material going onto the back-up file was not showing on the live system. Mr Gupta said that FFL instructed employees to delete the information from their laptops in order to comply with data protection requirements.
64. Mr Gupta denied that it was his responsibility to ensure that NMS 26.2 was complied with. NMS 26.2 states:
- "Staff, volunteers, panel members and fostering households understand the nature of records maintained and follow the service's policy for the keeping and retention of files, managing confidential information and access to files (including files removed from the premises). There is a system in place to monitor the quality and adequacy of record keeping and take action when needed".*
65. Mr Gupta claimed that NMS 26.2 referred to staff and not the RI. His responsibility was to ensure that there was a data system in place, and this was something he had been working on at the time of the visits.
66. Mr Gupta relied on the results of a monitoring visit conducted by London Borough of Waltham Forest on 22 August 2017, which he included in his hearing bundle, and which concluded:
- "Overall I can conclude that Future Fostering are providing a satisfactory service to Foster carers and yp placed with them. However a number of recommendations have been made below and they are to take on board recommendations made following serious safeguarding event following Ofsted report yet to be finalised".*
67. Mr Gupta said that no organisation was perfect and FFL had been in the process of "getting things sorted".
68. Mr Gupta asked the panel to take account of the PD's statement and in particular the following passage:

“As a team we were doing good work at the field level to support the foster carers and foster children, but I lacked robust recording to evidence the good work that we did at the field level. As a result, we were not able to provide some of the evidences to Ofsted inspectors during the monitoring visits, which lead to raise concerns on my practice”.

69. Mr Gupta was taken to a copy of his CV in his name that had been submitted to Ofsted by Stephenson’s solicitors on 2 February 2018 on behalf of FFL in response to a Notice of Proposal to cancel FFL’s registration. Mr Gupta’s “experience” was described as follows:

- *Manage Placement Team, coordinate placements with placement teams of Local Authorities*
- *Co-ordinate Form F assessments with independent assessors*
- *Policy writing and updating*
- *Training*
- *Supervise staff and carers*
- *Leading cwdc training for carers*
- *To provide supervision and support for designated foster carers, maintain records of any concern expressed and attend LAC reviews, Case Conferences and any other meetings with the carers*
- *To ensure that sufficient support is made available to the looked after children/young person placed with the carers*
- *To ensure that the carer is informed of, and fully compliance with, all standards, policies and guidance including safe caring guidelines*
- *Leading training of staff members, foster carers and potential foster carers*
- *Provide and lead appropriate support to the carers enabling them to achieve fostering task, participate in day to day activities at work and cover Emergency Duty Service*

70. Mr Gupta said that he had not seen this CV or approved it and could not take responsibility for what was written in it. He said that Ms Panwar may have updated it as she was the only person who had access to it and who was in a position to have done such a thing.

MM recalled

71. MM was recalled to assist the panel with the oral evidence that Mr Gupta gave regarding his role as RI.

72. MM was asked about Mr Gupta’s evidence regarding Regulation 8(1), and said that Regulation 8(1) applied equally to Ms Panwar, the RM, and Mr Gupta, the RI, because the regulation refers to the Registered Provider (RP). Mr Gupta was the representative of the Provider. Mr Gupta was also a director of the Provider, together with Ms Panwar. They were jointly responsible for carrying on the agency and for the agency’s compliance with the entirety of the Regulations, including

Regulations relevant to this hearing which concerned: adequate supervision of unqualified staff; the need for Form Fs to be completed by qualified staff; the oversight of the agency's practice including in relation to matching; the quality of assessments; the need for appropriate training for foster carers; and the need for adequate recruitment checks for staff, foster carers and panel members.

73. When asked whether she had been provided with an employee handbook, setting out the respective roles of the RI and RM for FFL, MM said that from recollection she had not. She said that in any event the roles and responsibilities of RI and RM within a fostering agency should have been set out in a statement of purpose, however this had not been done by FFL, which was a shortfall that was identified at the time.
74. MM was asked whether she had ever been informed that Mr Gupta's role as RI was limited to business development and finance, to which she replied she had not been so informed during the inspections. She said that whilst it was possible that Mr Gupta had taken that stance in discussion prior to the visits, the role was not capable of being limited in that way because the role needed to enable Mr Gupta to manage and oversee the agency in accordance with the Regulations. MM added that in any event it was clear from the inspection that Mr Gupta had in fact been involved in front line work in that he had made decisions about matching, had provided support to foster carers, had had discussions with supervising social workers and was the Agency Decision Maker. It followed that his role extended to more than business and finance.
75. MM said that Mr Gupta's role as Agency Decision Maker required him to make decisions on the basis of the recommendation of the panel regarding whether foster carers should be approved following their review. MM said that it was not right to say that Mr Gupta was not involved in any of FFL's front line social work. He had been able to give information about foster carers and the children in placement with them. He had had conversations with placing authorities and foster carers. Mr Gupta's own hearing bundle contained several references from foster carers regarding the support he had provided to them. He had attended meetings for children. He was on the duty team. He was making placement decisions and carrying out matching. It followed that he had been involved in the day-to-day aspects of the agency. He was also involved in recruitment.
76. MM disagreed with the suggestion that matching for placements was part of the business development for the agency as opposed to front line social work. She said that the process of matching involved looking at the foster carers available and whether they could meet the needs of the child. That was not developing the agency; it was making decisions about a child.

77. MM was asked about paragraph 9 of her witness statement, which read: *“The Regulations, alongside the NMS and Framework outline the roles and responsibilities of the RM and the RI. However, it is also dependent on the individual agency and the roles and responsibilities assigned to them”*. She explained that by this she had not meant that the RI could confine his responsibility to development and finance. What she had meant was that depending on the size of agency the RI may choose to take on additional roles, on top of the roles and responsibilities of a RI. It was not possible for the RI to reduce them. The RI was still bound by Regulations and NMS.
78. MM clarified that the NMS do not permit the assessment of foster carers to be conducted by an unqualified person. She said that if the RI becomes aware of conduct of the RM which breaches the NMS, those actions reflect on the Provider and therefore the RI. The RI has a responsibility to ensure that the agency operates within those standards. Therefore, if it came to the attention of the RI that the RM was not operating in line with the regulations, action should be taken. For example, if the RM decides to use unqualified people to assess prospective foster carers, the RI has the responsibility of supervising the management to ensure that the agency is operating within the Regulations and to ensure that children are safe. Therefore, the RI should be aware of who is completing assessments and should ensure they are competent and have the relevant skills. The RI is overseeing the RM’s practice and has overall responsibility as the representative of the Provider.
79. In cross-examination, MM stated that the term *“management of the agency”* in Regulation 5 (1)(d) referred to overseeing the RM but was also a general term regarding the operation of the agency. Whilst an agency is a business, the management of an agency involves a wide range of responsibilities including: making sure the regulations are met; making sure all paperwork, for example the statement of purpose, is in place; making it clear what foster carers and what children can expect; ensuring that the right RM is appointed; ensuring checks on recruitment are carried out; ensuring that the correct up-to-date training is in place; ensuring that all safeguarding policies are in place and that the agency is acting within those policies; ensuring that foster carers are recruited safely and that they are assessed for their ability to care; ensuring that panel procedures are in place and are in line with regulations; ensuring that the agency decision maker is the appropriate person for the job; ensuring the role of supervising social workers and other staff is clear and ensuring that they oversee the foster carers; working with the Local Authority around what children can be catered for by the agency and what skills the agency’s foster carers have; looking at referrals and ensuring that the agency places children with foster carers with the necessary skills; ensuring foster carers are providing appropriate care and that the RI advocates on behalf of children when their rights are not adhered to; ensuring that statutory duties are carried out, for example where a foster carer is no longer suitable anymore; and continually reviewing

placements to ensure that the agency continues to meet all regulatory requirements.

80. MM agreed that Mr Gupta may well have arranged with Ms Panwar to split responsibility on a day-to-day basis, for example Mr Gupta dealing with the financial aspects of the agency and Ms Panwar the management. However, this did not negate Mr Gupta's responsibility to meet all aspects of the Regulations, regardless of whether different roles had been set out in an employee handbook for Ms Panwar and Mr Gupta, as Mr Gupta suggested.

81. MM said that when Mr Gupta went through the process of applying to become an RI, he was provided with guidance dealing with what was required of him as RI, which would have made it clear that his role was to manage and supervise the agency in accordance with the Regulations as described.

Legal Adviser's Advice

82. The legal adviser advised:

- on the burden and standard of proof;
- that the panel should draw no adverse inference from Ms Panwar's absence;
- that the panel should consider the case against each social worker separately;
- that the panel should consider each charge separately although an acceptance of the use of members of unqualified staff in Charges 2 and 3 was capable of supporting the use of a member of unqualified staff in Charge 1;
- that pre-hearing adverse comments made by one social worker against the other in the absence of that other could not be treated as evidence against that other, whereas evidence in the course of the hearing was evidence for all the purposes of the case, albeit that a warning should be attached to evidence given by a person charged with an allegation who has or may have an interest of his or her own to serve;
- on the approach to take to Ms Panwar's admissions;
- on the approach to take to hearsay evidence, for example the statement of PD and the email of Person 12;
- on the importance of documentary evidence vis-a-vis evidence of demeanour;
- on the need to make allowance for the potential effect of delay on the memories of witnesses, in particular where there is no supporting documentary evidence;

- on the importance of conducting an independent analysis and not merely adopting the conclusions reached by Ofsted;
- on the approach to take to Ms Panwar's good character.

Decision on the issue of "Responsibility"

83. The panel did not accept the argument put forward by Mr Gupta that he was merely responsible for financial and business matters. The panel accepted the evidence provided by MM. The panel concluded that it was clear from reading the Regulations and NMS that Mr Gupta, as RI, was responsible for overseeing the management of the agency, which included supervising the RM and ensuring that the relevant regulations were adhered. It was clear to the panel that this is what was meant by Regulation 5(1)(d) where it stated that the RI is *"responsible for supervising the management of the fostering agency"*.
84. The panel concluded that even if an employee handbook was provided at the time, as Mr Gupta suggested, the content of it would not negate the RI and the RM's responsibilities under the Regulations. An RI has an overall responsibility for the agency's practice in compliance with the Regulations. Other additional duties can be taken on, but by virtue of his registration with Ofsted, Mr Gupta had duties as a RI which he would have been made aware of at the time of his registration.
85. Mr Gupta's email of complaint to Ofsted concerning Ms Panwar, dated 24 October 2017, states that Ms Panwar *"continues to refuse having supervision with me"*, which suggested that at least by October 2017 Mr Gupta considered the supervision of Ms Panwar to be within his remit.
86. Mr Gupta is recorded in the September 2017 monitoring visit as saying that there were *"no defined job descriptions"* due to the size of the agency. He is recorded as saying that he was running the agency alone, that he was supervising staff and *"student"* and that the RM had not been to the office *"in months"*.
87. Mr Gupta told the inspectors at the September 2017 visit that he was responsible for supervising the supervising social worker AT and Person 12, and that he was involved in safeguarding and training foster carers. In the November providers meeting, he said that he was supervising staff and that: *"I supervise the RM, I have asked her to attend 2 or 3 monthly supervision. My expectation is every 2 – 3 months supervision"*.
88. Mr Gupta's CV submitted by solicitors employed by FFL, when responding to the Notice of Proposal to cancel the registration of FFL provided an accurate list of duties encompassed by the RI role. The panel did not accept that Mr Gupta had no input in the creation of this CV.

89. When giving evidence, Mr Gupta accepted that he was responsible for front line social work activities such as out of hours placements and Ms Panwar's responsibilities when Ms Panwar was not present or otherwise engaged.
90. The panel therefore concluded that Mr Gupta, as RI, was, to his knowledge at the time, jointly responsible with the RM, Ms Panwar, for the agency's compliance with the Regulations and the NMS, and was responsible for supervising the management of the agency, which included the RM, and was responsible for overseeing the agency's practice and ensuring the agency's compliance with regulatory requirements.

Head of Charge 1: Between June 2014 and 13 April 2018, you allowed Person 12, a support worker and/or a student social worker to complete work and sign this off as a Supervising Social Worker, and/or complete work without the required qualifications or experience.

Social Work England's Case

91. Person 12 was employed by FFL as a family support worker in June 2014 as evidenced by an appointment letter for Person 12 provided by FFL to MM. MM was informed by Person 12 that she started her social work course in September 2016 but would not have been on placement until her second year.
92. The inspectors concluded that Person 12 was working in the capacity of a qualified social worker, specifically, as a supervising social worker, providing supervision and support to foster carers. This conclusion was reached on the basis of a list of foster carers allocated to Person 12, which was equivalent in number to the caseload of a qualified social worker.
93. Person 12 was also paid a salary equal to, or greater than, the qualified social workers employed by FFL.
94. During the December 2017 Visit, Person 12 told MM that she had worked at FFL for three years and that she was employed as a family support worker. She claimed not to be aware that she should not have been case holding. She said she was unable to be on placement with the agency as a student social worker until January 2018.
95. Regulation 19 requires that staff working for an IFA should be "*suitably qualified, competent and experienced*".
96. NMS 23.7 provides:

“Where unqualified staff and volunteers carry out social work functions, they must do so under the direct supervision of experienced social workers, who are accountable for their work”.

97. Person 12 could therefore have carried out some social work functions under the direct supervision of qualified staff.

98. Examples of documents completed and signed off by Person 12 were provided by MM, namely:

- i. Absconding Child Report dated July 2017, completed and signed off by Person 12 in relation to Child CN placed with Foster Carer AM;
- ii. Risk Assessment in relation to Child CN placed with Foster Carer AM dated July 2014, updated July 2017, completed by Person 12 as “student” supervising social worker. Ms Panwar is listed on the document as the fostering team manager;
- iii. Safer Care Practice for Foster Carers document in relation to Child CN placed with Foster Carer AM, dated August 2014, updated July 2017, completed and signed off by Person 12 as the supervising social worker;
- iv. Looked After Child (“LAC”) Report for Children AS and NS placed with Foster Carers FD and MH, completed by Person 12, dated September/ October 2017;
- v. Safer Care Plan document dated September 2016/ April 2017 for Children AS and NS placed with Foster Carers FD and MH, completed by Person 12 in role of supervising social worker;
- vi. Safer Care Plan document dated September 2016/September 2017, for Children AS and NS placed with Foster Carers FD and MH completed by Person 12 in role of supervising social worker;
- vii. Minutes of Foster Carer Supervision for Foster Carers FD and MH dated 26 June/ 14 August 2017, completed by Person 12 in role of supervising social worker;
- viii. Minutes of Foster Carer Supervision for Foster Carers FD and MH dated 13 October 2017, completed by Person 12 in role of supervising social worker;
- ix. Unannounced Visit Report to Foster Carers FD and MH dated 11 August 2017, completed by Person 12 in role of supervising social worker;
- x. LAC Report dated September/ October 2017 in relation to Child RR, completed by Person 12 and stated as ‘approved’ by FFL;

- xi. Placement Risk Assessment for Child RR dated 5 April 2017/28 June 2017, completed by Person 12 as the supervising social worker and 'approved by Ms Panwar';
 - xii. LAC Report dated September/ October 2017 for Child CM, completed by Person 12 and stated as 'approved' by FFL;
 - xiii. Placement Risk Assessment dated 8 February 2017 / 20 September 2017 for Child CM, completed by Person 12 as the supervising social worker;
 - xiv. LAC Reports for Child WK completed by Person 12, and recorded as 'approved' by Mr Gupta, dated: January 2017/ March 2017;
 - xv. LAC Report dated April / May 2017 (visit of 21 July 2017) for Child WK completed by Person 12 and recorded as 'approved' by Mr Gupta;
 - xvi. LAC Report dated September/ October 2017 (visit of 19 October 2017) for Child WK completed by Person 12 and 'approved' by Mr Gupta;
 - xvii. Placement Risk Assessment for Child WK dated January / July 2017 and completed/ signed off by Person 12 as the supervising social worker with fostering team manager named as Ms Panwar;
 - xviii. Minutes of Foster Carer Supervision, dated 19 October 2017 and signed off by Person 12 as the supervising social worker.
99. Though some documents were recorded as having been approved by Mr Gupta, Ms Panwar or 'FFL', there were no signatures from Mr Gupta or Ms Panwar. There was no commentary to evidence that the documents had been appropriately supervised by a qualified social worker confirming that they were happy with the content.
100. MM gave evidence that in order to demonstrate proper supervision of an unqualified member of staff, inspectors would expect to see evidence of supervision within the files reviewed, including commentary on the documents and confirmation that the qualified social worker agreed with the content and analysis. The document should be signed and dated by the qualified social worker.
101. MM gave evidence that the poor quality of the documents provided further evidence that the work had not been supervised by a qualified and experienced individual.
102. During the December 2017 Visit, Mr Gupta and Ms Panwar were asked about their oversight of paperwork, including risk assessments and 'Safer Care Plans', and said that they did not often check the paperwork. Ms Panwar stated that this was *"based on belief of competency of social worker"*.

103. Mr Gupta told inspectors that Ms Panwar checked and gave feedback on work, including Person 12's, and that the quality of work was checked at annual reviews and feedback. Evidence of this was requested, but none was provided by FFL.

Mr Gupta's Case

104. In his representations to the HCPC's Investigating Committee Panel (ICP) allegations, Mr Gupta said that since becoming a student social worker, Person 12 was permitted to hold cases under supervision and did so at FFL where wellbeing, outreach and targeted youth support work was required as Person 12 had the "capacity to build good rapport with youths". Mr Gupta asserted that Person 12 was supervised, was never allowed to sign off any piece of work and that if she had, she should not have done so.

105. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"The worker in question, Person 12, started her employment with Future Fostering as a family support worker on 16th June 2013, to be supervised by the fostering manager, Ms Panwar. Her appointment letter is attached for reference.

Satisfied with her good work and upon her request the Agency sponsored Person 12 to complete her social work degree, via Open University, starting July 2015. As part of her education requirement and Open University policy Person 12 needed to complete her social work placements with the Agency and, as a student social worker, would get to work with the foster carers under supervision of the fostering manager, Ms Panwar. It was my understanding that Person 12 was required to work with the foster carers, as her student placement requirement, at all time until she completed her course. I can assure that the Agency Management had never asked Person 12 to sign any document as a Supervising Social Worker. Person 12 should have never signed any document as a 'Supervising Social Worker' but only as a 'Student Social Worker', and whether it happened as an error or was a deliberate act only Person 12 could clarify and justify.

As the person leading the team I take full responsibility for not developing a robust case management and auditing system for the Agency. If I had the Agency could have prevented the management from (mis)understanding that a student social worker was not allowed to complete work without qualifications. Also, I should have not relied on merely my understanding of the requirements of the Open University study programme and the student placement requirements. I should have made attempt to clarify these requirements from Open University and guide the fostering manager if a mistake was being made, knowingly or unknowingly. I should have made effort to check some of the work Person 12 was completing as a student and the paperwork

that she was completing. If I was vigilant enough I could have prevented the errors that was being caused and I take full responsibility for not doing this. My interventions were simply not enough to prevent the shortfalls in the Agency. The fact that this allegation happened under my leadership I take full responsibility and apologise for my failure on this matter. In future I will ensure that I read the requirements of all my engagements and of my team members, direct or indirect, be fully understood by me and I or my team meet all such obligations and responsibilities.”

106. In his oral evidence Mr Gupta relied on a number of points, including the following:

- a. Person 12 was a student social worker and/or a “trainee social worker” and permitted to undertake social work under supervision;
- b. Mr Gupta understood that Person 12 was supervised by Ms Panwar;
- c. Mr Gupta was, in any event, not responsible for social work practice due to his limited role as RI;
- d. Where Person 12 signed off work as a supervising social worker (“SSW”) this must have been in error;
- e. The names on documents do not relate to the person who completed those documents.

107. In presenting his case before the panel, Mr Gupta relied on an email dated 26 July 2021 from Person 12 which stated:

“I can confirm that the management team did not ask me to sign as a supervisor SW and if I did it might have been purely human error”.

108. This email had been included in Mr Gupta’s hearing bundle with the agreement of Ms Sharpe on the understanding that Person 12 was to be called to give evidence. In the event Person 12 did not attend and Ms Sharpe submitted that little if any weight should be attached to the email in the circumstances. Mr Gupta submitted that the panel should rely on the email as evidence that Person 12 has signed off as a supervising social worker in error and without his authority.

109. Mr Gupta argued that he did not “allow” Person 12 to act in the manner alleged. He added that Ms Panwar was responsible for the allocation of work to frontline staff.

110. Mr Gupta claimed that Ms Panwar told him that she supervised Person 12.

Panel Decision

111. The panel was satisfied that this allegation was proved.
112. MM's evidence that supervision should be evidenced by the signature of a supervising qualified social worker, together with an analysis/evaluation to say that the qualified worker is happy with the content of the document, was not in dispute. Evidence of supervision was requested by the inspectors, but not received.
113. The panel concluded that Person 12's professional status was that she started a social work degree with the Open University but was not on placement with the agency, and therefore was not on a placement as a student social worker, until January 2018, after the final Ofsted Visit. She would therefore not have been recognised by the title of 'student social worker' by an employer until 28 January 2018.
114. This conclusion was supported by the agency's solicitor's response to the Notice of Proposal to cancel FFL's registration, dated 2 February 2018, which referred to Person 12 as a *"family support worker who is currently undertaking a degree in social work. The family support worker starts their first placement on 28 January 2018 but previously worked outside of the role of social work placement. The family support worker assists the supervising social workers, is allocated a small caseload"*.
115. There was no suggestion within these representations that Person 12 was a student social worker or trainee social worker. The panel did not accept that these submissions were sent without the consent of the joint director of FFL, Mr Gupta, as alleged by him in oral evidence. That would have been entirely unprofessional on the part of the solicitor concerned.
116. The panel took account of an email sent by Mr Gupta to HL dated 29 November 2017, stating that Person 12 started her degree in September 2016. The panel noted that this conflicted with what Mr Gupta said in his witness statement, which was that she started her degree in July 2015.
117. The panel considered Mr Gupta's evidence of a conversation that he said he had with the Open University. He claimed that he had been told, it transpired erroneously, that Person 12 was to be considered a student social worker. He claimed that he then relied on this account. This information allegedly provided by Open University conflicted with what Person 12 told the Ofsted Inspectors, namely that she was employed as a family support worker. It also conflicted with her letter of appointment, which stated that she was employed as a family support worker, and with a document, provided by the Agency's solicitors, signed by Mr Gupta, stating: *"As from 28/01/18, our Family Support Worker role will change to that of a Student in Social Work for her 70 days placement period within Future Fostering"*.

118. Mr Gupta suggested that Person 12's contract was updated after her commencement with the agency, but there was no record of this.
119. There was no evidence on any of the documents signed by Person 12 that she was under the direct supervision of a qualified social worker. Though the names of Mr Gupta, Ms Panwar and "FFL" appeared on the documents, there was no commentary as to its quality and many of those documents were considered by the Ofsted Inspectors to be deficient, which also undermined the suggestion that those documents were supervised by a qualified social worker.
120. In the agency's solicitor's response to the Notice of Proposal to cancel FFL's registration, dated 2 February 2018, *"the agency accepts that appropriate supervision has not been given to the family support worker and that this has impacted on the quality of support and guidance provided to the foster carers"*.
121. Mr Gupta asserted that Ms Panwar was responsible, at all times, for supervising Person 12. This was undermined by the information Mr Gupta provided to Ofsted about the supervision arrangements during the visits and at the providers meeting and in an email from Mr Gupta in September 2017 in which he identified himself as Person 12's supervisor. Some of the documents which Person 12 signed off as a supervising social worker were dated around, and after, the time of this email.
122. As confirmed by MM, even if Mr Gupta was not directly responsible for the supervision of Person 12, Mr Gupta's role as RI required him to ensure compliance with the agency's Regulations and NMS, and he should have ensured that staff had the appropriate qualifications for the roles they were undertaking.
123. MM was taken to the email, dated 26 July 2021, sent by Person 12 and produced by Mr Gupta, in which Person 12 stated *"I can confirm that the management team did not ask me to sign as a supervisor SW and if I did it might have been purely human error"*. It was MM's view that signing off the documentation relied on in this case could not be due to human or administrative error due to the large number of times it had occurred. The panel agreed with this view. In so doing it bore in mind that Person 12 had not been called to give evidence and therefore the email could not be tested. The panel attached no weight to it. The email was inconsistent with the other evidence, including the account Person 12 is recorded as providing to Ofsted about her role during the visits. A *"student/support social worker"* is not a recognised role.
124. The panel also took account of the evidence of HL when Person 12's email was put to her, to which she responded that *"that would be difficult to defend given that verbally we were told she was the supervising social worker for those carers by other members of staff and that every record I read in relation to that child was her"*

analysis, her evaluation and her name on the documents. The document we have already looked at, such as the self-harming risk assessment, a very complex area, it is her name on the supervising social worker box and other documents”.

125. At Mr Gupta’s request, the panel considered the argument put forward by him in relation to the Safer Care Practice for Foster Carers document for Child CN placed with Foster Carer AM, dated August 2014, updated July 2017, completed and signed off by Person 12 as the supervising social worker, bearing the name of a local authority social worker. Mr Gupta argued that far from raising complaint about this document, the local authority had placed its name to it. The panel accepted MM’s evidence that the supervising social worker is employed by the IFA to oversee foster carers, whereas the local authority social worker is employed by the placing local authority which is the corporate parent of the child. The local authority is responsible for overseeing the placement from the local authority’s perspective. It was not the local authority social worker’s responsibility to supervise an unqualified member of agency staff. It followed that the appearance of the local authority social worker’s name on this document did not mitigate the issue complained of.
126. During the inspection, when Ofsted queried Person 12’s employment, the RM and RI did not raise or provide evidence of what was now being suggested, that she was a trainee social worker. MM said that at no point during the visits was Person 12 referred to as a trainee social worker. She was referred to by Ms Panwar and Mr Gupta as a family support worker who was undertaking a degree in social work and was in her first year, and would not be starting her placement until January, after the visits. Prior to her starting her placement, she was employed as a family support worker. At no point was a contract or job description produced to demonstrate that her role had changed to a trainee social worker.
127. The evidence was that Person 12 was acting as a supervising social worker without the necessary qualifications to do so. There was no evidence of any supervision of any of the documents completed by Person 12 and therefore no evidence to support the assertion that whilst unqualified, she was undertaking work under the direct supervision of a qualified social worker who was accountable for the quality of her work. Mr Gupta asserted during visits that Ms Panwar supervised Person 12’s work and provided feedback. Ms Panwar did not accept that she did so. Evidence of supervision was requested by Ofsted, but not provided by the agency.
128. The panel accepted the evidence of MM and HL, which was supported by documentary evidence. It did not accept the evidence provided by Mr Gupta, which conflicted with the available documentary evidence, as set out above.
129. In all the circumstances the panel was satisfied that between June 2014 and 13 April 2018 Mr Gupta allowed Person 12, a support worker to complete work and

sign this off as a supervising social worker, and/or complete work without the required qualifications or experience.

130. Accordingly, the panel found Charge 1 proved.

Head of Charge 2: You allowed a psychology student, Person 13, who had not completed a social work qualification, to complete Form F assessments on or around the following dates:

- a. **November/December 2013**
- b. **September 2014;**
- c. **July 2015;**
- d. **October 2016/March 2017.**

Head of Charge 3: On an unknown date, you allowed a law student, Person 14, who had not completed a social work qualification, to complete a Form F assessment.

Social Work England's Case

131. MM explained that Form F assessments are documents used by fostering agencies to carry out the assessment of foster carers in accordance with the relevant regulations and NMS. Once the Form F is completed, the proposed foster carers must be approved by a panel in accordance with the Regulations.

132. Regulation 19 (Staffing of a Fostering Service) underpins NMS 23.6 which states that:

"Any staff involved in assessing the suitability of persons to be foster carers are social workers, have experience of foster carer and family placement work and are trained in assessment. Social work students and social workers who do not have the relevant experience, should only carry out assessments under the supervision of an appropriately experienced social worker, who takes responsibility for the assessment".

133. NMS 13.7 provides that Form F assessments/reports should be

"prepared, signed and dated by the social worker who assessed the prospective foster carer and countersigned and dated by the fostering team manager or a team manager of another of the provider's fostering teams".

134. In relation to Charge 2, Person 13 was a psychology student who had been engaged by FFL as an 'independent assessor' from 27 September 2013. FFL held a Student Confirmation of Study letter and a transcript of her University grades, both of which demonstrated that Person 13 was studying psychology. Person 13 was not a student social worker and was not working towards social work qualifications. She should not therefore have been completing Form F assessments, whether supervised or unsupervised.
135. FFL provided a post-it note which purported to confirm which of the Form F assessments had been completed by Person 13.
136. On reviewing the files, the inspectors identified Form Fs completed by Person 13, for the following foster carers:
- i. Foster Carer HE, dated November/December 2013;
 - ii. Foster Carer ZM, dated September 2014;
 - iii. Foster Carers FB and AO, dated July 2015;
 - iv. Foster Carers AA and HR, dated October 2016/ March 2017.
137. In relation to Charge 3, HL reviewed panel minutes dated 1 July 2017 regarding the consideration of Foster Carers MV and SV for approval. The Form F was completed by Person 14. Person 14 was a law student/graduate, not a qualified social worker or student social worker.
138. It was alleged that allowing students who were not social workers, student social workers or individuals studying to become social workers, to complete Form F assessments of potential foster carers was a breach of Regulation 19 and NMS 13.7 and 23.6.

Mr Gupta's Case

139. In his representations to the ICP, Mr Gupta asserted that he had no knowledge of this matter until Ms Panwar informed the Ofsted inspectors. Mr Gupta suggested that Ms Panwar had responsibility for all Form F assessments, selection, recruitment and supervision of Form F assessors, progress of Form F assessments to the panel, presentation of these assessments to the panel and its proceedings. Mr Gupta said that he understood that Person 13 was assisting Ms Panwar due to Ms Panwar's health condition.
140. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"Assessment of [foster carer] FC applicants and supervision of assessors have always been Ms Panwar's responsibility. As the Agency Decision Maker (person who makes

decision whether to accept panel's recommendations on FC approvals and reviews) I was stipulated by Fostering Regulations to not get involved in the assessment process, to keep decision making process impartial. NMS 23.7 suggests the following.

National Minimum Standards - 23.7) Where unqualified staff and volunteers carry out social work functions they do so under the direct supervision of experienced social workers, who are accountable for their work.

It needs to be noted, from the above NMS 23.7 that use of unqualified staff and volunteers to carry out social work functions are permitted, but under direct supervision of experienced Social Worker. To me, the Fostering Manager had always maintained that she was directly supervising such assessments, however, when challenged by Ofsted she agreed that she did not accompany the assessors in question in all their visits but had visited with them on most of the visits. I came to know of this error when Ofsted identified this matter to me.

As the person leading the team and as the Decision Maker of the Agency I should have cross checked with Ms Panwar as well as the applicants to satisfy myself whether Ms Panwar had accompanied the assessor in all her visits as was the requirement of the NMS. A robust case management and auditing system for the Agency could have helped pick on the shortfalls. Merely the fact that I was reading all the paperwork that went to the panel, minutes of the panel and their recommendation before making a decision was not good enough. If I had scrutinised further I could have prevented the manager from getting this practice repeated in some other cases. My interventions were simply not enough to prevent the shortfalls in the Agency. The fact that this allegation happened under my leadership I take full responsibility and apologise for my failure on this matter. In future I will ensure that only qualified people do the assessments and will not entertain the practice of unqualified workers doing any assessments. I will ensure that HR and safer recruitment obligations were completed before any work was assigned, qualified or unqualified, to anyone to nip these failures in the bud."

141. In his oral evidence Mr Gupta said that although he had admitted Allegations 2 and 3 at the commencement of the hearing, he had done so "on moral grounds" as there had been a failing on the part of the agency. However, he now wished to retract those admissions as he did not accept personal responsibility for Charge 2 or 3. His defence was that this area was Ms Panwar's responsibility.
142. Mr Gupta said that Ms Panwar assured him that NMS 23.7 allowed unqualified people to carry out social work activities, including assessments, if under the supervision of a qualified person. NMS 23.7 states:

“Where unqualified staff and volunteers carry out social work functions they do so under the direct supervision of experienced social workers, who are accountable for their work”.

143. Mr Gupta said that it was only now, as a result of this hearing, that he had become aware of NMS 23.6,

“Any staff involved in assessing the suitability of persons to be foster carers are social workers, have experience of foster care and family placement work and are trained in assessment. Social work students and social workers who do not have the relevant experience, only carry out assessments under the supervision of an appropriately experienced social worker, who takes responsibility for the assessment”.

144. He said that he now accepted that whilst some social work activities could be carried out by unqualified staff and volunteers whilst under direct supervision of an experienced social worker, Form F assessment was not one such activity. He claimed that he had not understood this earlier.

145. Mr Gupta said that Ms Panwar told him that she always accompanied unqualified staff if assessment formed part of their activities. He said that she later told him in fact she did not always accompany them.

146. In cross-examination Mr Gupta was taken to the submissions he provided to the HCPC at an earlier stage in these proceedings, where he referred to NMS 23.6. It was suggested that it was clear that he had been aware of the existence of NMS 23.6 at that time, and it was therefore not correct to suggest, as he had done, that he had only just become aware of it. Mr Gupta agreed that it appeared that he had been aware of 23.6 at the time of compiling his submissions to the HCPC. He said he had forgotten about 23.6 by the time this hearing began.

147. Mr Gupta agreed that his CV stated that his experience included: *“coordinate Form F assessments with Independent assessors”*. He said that what he meant by that entry was that he was looking out for potential independent assessors who would be good for FFL, as part of his role in business development. He denied that the “independent assessors” referred to were Persons 13 and 14.

Panel Decision

148. It was not suggested by any party that either Person 13 or Person 14 was suitably qualified. Mr Gupta accepted that he was aware that these unqualified individuals were completing Form F assessments.

149. The panel was satisfied, for the reasons set out earlier in this decision, that Mr Gupta as the RI, and Ms Panwar as the RM, had joint responsibility for the agency’s compliance with Regulation 19, NMS 13.7 and NMS 23.6. In any event, Mr

Gupta's CV supported the suggestion that he had experience in co-ordinating Form F assessments.

150. The panel did not accept that Mr Gupta had been unaware of NMS 23.6 prior to this hearing, in that he quite clearly referred to it in his submissions to the HCPC in relation to this allegation. In any event, as stated earlier, he had a duty to be familiar with all relevant rules and regulations.

151. The practice of Ms Panwar, the RM, was subject to the oversight and challenge if need be of the RI, Mr Gupta. There was no evidence that he had challenged her practice at any point. The majority of the foster carers who were assessed by unqualified assessors were approved to foster by Mr Gupta. The panel accepted the submission put forward by Social Work England that by not challenging this practice, Mr Gupta was allowing Persons 13 and 14 to complete Form F assessments.

152. For those reasons the panel was satisfied that Mr Gupta allowed a psychology student, Person 13, who had not completed a social work qualification, to complete Form F assessments on or around the dates specified in Charge 2.

153. Accordingly, the panel found Charge 2 proved.

154. The panel was also satisfied that Mr Gupta allowed a law student, Person 14, who had not completed a social work qualification, to complete a Form F assessment.

155. Accordingly, the panel found Charge 3 proved.

Head of Charge 4: You completed and/or approved inadequate matching checklists that did not consider the relevant risk factors in relation to the following children:

- a. Child O and/or Child P's Matching Checklists dated 16 June 2016 were inadequate, in that;**
 - i) The matching did not consider the carer's ability to meet the needs of Child O and/or Child P given the carer already had three children.**

Social Work England's Case

156. The matching checklists for both Child O and Child P (who are siblings), dated 16 June 2016, were produced. Mr Gupta's name appeared as the 'duty worker' on both checklists. No supervising social worker or line manager was named on either document.

157. MM stated that a qualified social worker should complete a matching checklist, or at least oversee and sign it off. She said that the RM and RI were responsible for the quality of placement matching.
158. MM reviewed the matching checklists for Child O and Child P and concluded that there had been no consideration of the foster carers' ability to meet the needs of the children, given that they already had three birth children in addition to two other looked after children who were unaccompanied minors. With Child O and Child P this made seven children in the placement. Further, the second foster carer (HM) worked full time. The household only had three bedrooms and it appeared that Child O and Child P were sharing a bed.
159. By the January 2018 visit, the matching checklist had not been reviewed.
160. In cross examination by Mr Gupta, MM was taken to a letter written by the foster carers who stated:
- "I would like to confirm that on 16 June 2016 when siblings [Child O and Child P] were placed with us, we were only looking after two unaccompanied minor brothers".*
- MM said that the letter did not mention the foster carers' own children and whether they were or were not also living in the property.

Mr Gupta's Case

161. In his response to the ICP allegations, Mr Gupta stated that the foster carers were very experienced and were approved to foster three children and/or sibling groups. Further, the foster carers and the children were well matched on ethnicity, religion and location. He suggested that one of their own children was a *"successful medical doctor"* and the other two were studying medicine.
162. In his statement submitted for the final hearing, Mr Gupta stated as follows:
- "At Future Fostering the matching process when matching children with foster carers took into consideration the important factors such as i.e. religion, ethnicity, culture, carers abilities and skills, training record, location, carers experience and availability etc. The Agency developed this matching template before their last Ofsted inspection and was seen and praised about by the inspector at that time. Hence the Agency was satisfied that the matching process developed was appropriate. The template was used at the time of making all placements; information available in the referral at the time of making placements was used to match the needs with the skills of foster carers. The challenges of handling placements was that LAs would increasingly not disclose the needs of children that would categorise them as children with enhanced needs requiring more funding and in some of the cases making it impossible for the*

children to be placed with the foster carers. For e.g. in the case of Child R the initial referral did not mention that the child self-harms. When the first incidence of self-harm happened and was reported to the LA it appeared from social worker that it was not the first instance of self-harm, although superficial, but did not give any explanation on why this was not disclosed at the time of making the placement suggesting that placements was not her responsibility.

Either by me or by Ms Panwar, the matching reports were completed at the time of making the placements based on the information made available at the time of making the placement, as we were the only members of the 6 member team (including the admin) that managed the placement and OOH services/placements. The challenge of taking OOH placement was that information provided by LA was usually incomplete and scanty, as most of the OOH tasks were outsourced to teams handling OOH responsibilities of multiple LAs at the same time and not having access to files and records usually accessible to social workers and social work teams. Also to be noted is the fact that there was and is no set industry standard that defies what a robust matching criteria or report should look like. If there was we would have definitely used it. I had asked for one from Ofsted when they visited us only to be told 'we are not your consultants', by the inspectors.

On the day (16.06.16) siblings [Child O] and [Child P] were placed with the FCs FH & MH, they only had two UASC YP brothers placed with them SO (16 Yrs)& MO (15 Yrs). They have been placed with the FCs since 17.12.15, by L.B of Bexley. They were very well settled in the placement and presented as no risk to any children. The FCs are still in touch with them although the brothers are now living in a semi-independent flat in Bexley and have done remarkably well academically, the foundation of which was laid when they were placed with FD & MH, their only foster placement in the U.K. The FCs was approved to look after 3 children or siblings, considering the FCs were looking after a sibling the FCs could have taken a sibling placement, of course with requirement of exemption as the number of children would have become more than 3 by placing a sibling, but considered that the YP brothers were well settled in the placement and the siblings [Child O] and [Child P] were a far age gap from the brothers, an exemption was an obvious requirement to place more than 3 unrelated children. On 16th June 2016, London Borough of Redbridge wanted an experienced local Asian Pakistani Muslim FCs for Siblings [Child O] and [Child P], as they were being taken into care due to DV between the parents. There was a requirement of daily contact. FD & MH had done great work for Redbridge children hence there was a request for them if they were available. The FCs were experienced, were a cultural match, lived in Redbridge who had done generous work with the LA. The FCs were happy to help and hence the siblings got placed with them. Later, the FCs won a lot of accolades from the council for the work they did with the siblings and at one point

were being considered for special guardianship for the siblings. If they were not the perfect match the LA would have not considered the FCs for special guardianship for the children and here I rest my case to judge if it was good match or not. Just to mention, the children later went back to their mother and both families are very close to each other; for the children FD & MH remained as grandparents like.”

163. In his oral evidence Mr Gupta stated that:
- a. Though the matching checklists in Head of Charge 4 bear his name, he did not complete them;
 - b. The matching checklists were completed by the supervising social workers after the placements had been made;
 - c. All relevant information relied on by the local authority for matching was provided to the local authority by email at the time of matching;
 - d. He did not have a duty to oversee the quality of matches;
 - e. The local authority bears equal responsibility for the quality of the match;
 - f. The carers in relation to Charge 4(a) did not have three birth children living at home at the time of placing.
164. Mr Gupta said that it was not the matching checklists that the local authority relied on when deciding whether to accept a placement, but the content of an email that was sent to the local authority by FFL at their request. These emails were not before the panel. The matching checklists themselves would be completed after the agreement had been reached for the child to be placed, based on that email correspondence. It was commonly the case that the checklists were not sent to the local authority at all.
165. Mr Gupta said that whilst his name appeared on the checklists, his signature did not. He said he did not write them and that his name had been placed on the templates by the supervising social workers who completed the form.
166. In relation to Charge 4(a), Mr Gupta claimed that the foster carers' three birth children all became doctors and had left home by the time of the placement.
167. It was put to Mr Gupta that FFL's solicitors' representations sent in response to the Notice of Proposal to cancel FFL's registration stated that: *"the agency accepts that these forms may not have been completed sufficiently in the past"*. Mr Gupta said that those representations had been submitted without his input.
168. Mr Gupta said that in relation to Child O and Child P, FFL was called by the local authority late in the evening to see whether a foster carer was available. The

foster carers chosen were very experienced and were a cultural match. They were offered to the local authority who liked them and decided to place them.

169. When asked whether he was of the view that the checklist was adequate, Mr Gupta replied that he would say it was, but it was not for him to comment as he did not complete it.

Panel Decision

170. The panel did not accept the recent evidence that Mr Gupta had provided regarding the irrelevance of matching checklists and FFL's reliance on emails. This was not something that he had mentioned prior to giving evidence and the panel was satisfied that had it been true Mr Gupta would have mentioned it earlier. Mr Gupta's written submissions stated that the "*matching reports were completed at the time of making the placements...*". This was consistent with MM's evidence that when FFL was asked by Ofsted to evidence how matches were made, FFL provided the matching checklists. MM was clear that no emails between the agency and the local authority placement team about matches were provided to Ofsted or contained within the children's files. Neither were any such emails provided by the agency's solicitors in the representations.
171. Whether or not there were also failings by the local authority as to the overall quality of the matches made, did not affect the issue to be decided by this panel regarding whether this charge was proved.
172. Mr Gupta had suggested that the three birth children were away from home at the relevant time, with two of them studying medicine in Bulgaria and the third a medical doctor in London. The panel did not accept that this could be correct at the time of placement. The Form F for these carers is dated March 2015. Child O and P were matched on 16 June 2016. The Form F provides the names and ages of the three birth children and a record of interviews with them. The eldest, 16 years old and at secondary school; the second was 14 years old and in year 9 at secondary school, and the youngest was 5 years old, in reception at that time, to start school in September 2015. Fifteen months later, when Child O and P were matched, these children would have been approximately 17, 15 and 6 years old.
173. The panel accepted MM's point regarding the letter allegedly written by the foster carers in this case; they may well have intended the reader to consider the two unaccompanied minor brothers referred to by them in that letter as additional to their own children.
174. The panel accepted MM's evidence that the foster carers' own three children should have been considered when completing and/or approving the checklist. The matching checklist did not consider the carers' ability to meet the needs of the

children given the foster carers already had three children of their own, in addition to two looked after children. There was no consideration of the carers' ability to meet all the children's needs and keep them safe; this included a lack of consideration of the impact of the incoming children on the existing children within the property. The rationale and decision making was not evidenced. The panel was satisfied that it was Mr Gupta who filled in this matching checklist given that his name appeared as the duty worker on both checklists.

175. On that basis the panel found Charge 4(a) proved.

- b) Child R's matching checklist dated 4 January 2017 was inadequate, in that;**
 - i) The matching did not consider the carer's experience in dealing with Child R's history of self-harming.**

Social Work England's Case

176. The matching checklist for Child R dated 4 January 2017 was produced. Mr Gupta was named as the duty worker on the checklist. No supervising social worker or line manager was named.

177. It was alleged that the matching checklist did not consider the foster carer's experience in dealing with Child R's history of self-harming. HL reviewed the matching checklist during the December 2017 visit and noted that it *"was not sufficient to secure a good match – self harming and caring for children who have been sexually abused/awareness should have been the criteria identified."*

178. HL said that the foster carer had not received training on mental health or self-harming and had attended only one support group run by Mr Gupta in relation to self-harming. She said that issues such as a lack of training on a specific area, in this case mental health and self-harming, should have been identified at the matching stage on the matching checklist, either to say that training was in place or would be put in place shortly.

179. HL disagreed with Mr Gupta's suggestion that there was evidence of this foster carer having experience with children who self-harm. She said that if the reason for the match had been the foster carer's previous experience working with children who self-harm, that should have been recorded.

180. HL said that if Mr Gupta was away when this particular match was made, he nevertheless remained accountable for the quality of the matching checklist; he remained accountable for delegated work.

Mr Gupta's Case

181. In his written submissions to the ICP, Mr Gupta asserts that he is unable to comment on this allegation as he was on holiday between 30 December 2016 and 9 January 2017. He also provided flight tickets for this holiday.

182. In his most recent written submissions for the final hearing, Mr Gupta stated as follows:

“From what I managed to gather upon my return is as below. The Child R was placed with the FCs on 04.01.17. Her brothers were already in placement with another of our FCs, hence the LAs requested the Agency to accommodate the child with FCs where she will be the only child, is an Asian Family and is all-female household. The LA’s wanted an Agency FC so that sibling contact can be kept in-house. The FC proposed had good experience of working with children who self-harmed, goes missing from home and generally had a traumatic family life. At the time of taking the placement the FC has had 5 years of experience as a foster carer and has had numerous trainings and successful Annual Reviews acknowledging her good work with children. It was these reasons she was proposed and the ‘LA accepted the FC’, considering the proposal to be the best match to look after Child R. Surely the LA needs to be give the credit who judged that the proposed FC was the best match when they receive several offers for any placement request. The Agency only proposes FCs for placement and the LA chooses the best match, not as Ofsted makes it to believe that we matched the FCs with Child R and our decision was final.

I must explain that working with a child who self-harms is not an easy task. Despite support and good work placement do break down, as it happened in the case of Child R. Lack of resources and support from LA were blamed upon the Agency. For e.g. The LA Newham had referred Child R for CAMHS services which were delayed due to long waiting list, all this making the placement suffer. Delays in getting CAMHS appointment in London has always been a worry, subjecting children in care to suffer. Ofsted knew that the Agency do not offer psychological services to children but wanted to know why we did not offer such services to this child, and expected us to offer such services, knowing that it was not within the remit of the Agency to have started such work with a Child. Such interventions need approval from the Council to be included in their care plan, if we were to offer such services.”

183. In his evidence in chief Mr Gupta again relied on his written statement. He said that he was not involved in making this placement as he was abroad at the time and was updated on his return. He said that the foster carer was proposed to the local authority and the local authority accepted and placed the child. The child’s needs changed a lot whilst in placement. The local authority referred the child to Child and Adolescent Mental Health Services (CAMHS) but their services were

delayed and so no help was forthcoming. It was not within FFL's remit to provide services such as psychological services.

184. In cross-examination Mr Gupta said that he denied this charge because he was on holiday when the match took place. He said there was no legal requirement to make a matching checklist. He did not see the need to check up on what his partner Ms Panwar was doing in his absence. He repeated his point that the matching checklist was not completed at the time of making the placement and that the local authority relied on email correspondence with FFL.

185. When asked whether he accepted that training was important for a foster carer dealing with a child who self-harmed, he said that training is very contextual, and that experience is more relevant. In any event, this foster carer would have had some training in self-harm when she joined.

Panel Decision

186. The panel did not accept Mr Gupta's evidence regarding the irrelevance of the matching checklist, for the same reason as set out in its decision on Charge 4(a).

187. The panel accepted the evidence provided by HL that this foster carer had had insufficient training on relevant issues such as self-harm. The panel did not accept the suggestion that this foster carer's annual reviews suggested otherwise.

188. The panel did not accept that Ms Panwar had sole responsibility for this checklist; Mr Gupta was named as the duty worker on it. In any event, as RI Mr Gupta was jointly responsible for the adequacy of the matches, for the reasons set out earlier in this decision in the section "Responsibility".

189. The panel was satisfied that Child R's matching checklist was inadequate in that it did not consider the foster carer's experience in dealing with Child R's history of self-harming. Consideration of such a crucial point was obviously of importance, as explained by HL.

190. Accordingly, the panel found Charge 4(b) proved.

c) Child B's matching checklist dated 16 June 2016 was inadequate, in that;

i) The matching did not consider how the carer's skills and knowledge would meet the needs of Child B.

Social Work England's Case

191. The matching checklist for Child B, dated 16 June 2016, was produced. Mr Gupta was named as the duty worker on the checklist. No supervising social worker or line manager was named.
192. MM said that the checklist was extremely poor as it did not advise why the match would be beneficial to Child B, or how the foster carers' skills and knowledge would meet the child's needs. There was no consideration of the compatibility with, or impact on, the carers' own children.
193. MM said she would have expected to see consideration of the fact that Child B was an unaccompanied asylum seeker.
194. MM said that it was not clear how the conclusion could be reached that these foster carers were "*perfectly suited to the needs of Child B*", as suggested by Mr Gupta, as there was no rationale provided to that effect. The rationale only considered the child's culture, language and religion. A description of some of the needs that Child B presented had been provided but there was no description of how the foster carers were suited to that. There was no reference on the checklist to the carers having experience of unaccompanied asylum-seeking children previously.
195. MM said that the foster carers had not received training on how to support "unaccompanied children" or specific training in relation to exploitation. MM said that support groups did not normally provide training. MM said the lack of training should have been identified at the matching stage. This was an opportunity to identify whether there were gaps in training, skills or knowledge, and the agency should then record strategies on how any gaps were going to be met and give the carers the opportunity to develop to meet the needs of the child.

Mr Gupta's Case

196. In his response to the ICP allegations, Mr Gupta asserted that Child B was adequately matched and that Child B was an unaccompanied child seeking asylum who was from Iran, a practising Muslim who spoke little English. Mr Gupta identified that as the foster carers were Asian Muslims they were "*perfectly suited to the needs of Child B*". Mr Gupta asserted that the local authority was in agreement that the proposed foster carers were a "*perfect match*". Mr Gupta said that the local authority make the decision to accept a placement. Mr Gupta asserted that the foster carers had attended training on Caring for Asylum Seeking Refugee Children and had looked after other unaccompanied children in the past. Mr Gupta asserted that as Child B stayed in the placement under the "Stay Put" policy, this demonstrated the foster carers' commitment.
197. In his statement submitted for the final hearing, Mr Gupta stated as follows:

“This information is factually incorrect, Child B was not placed on 16.06.2016 but on 15.03.2017. Child B was adequately matched; the foster carers for child B are a very experienced foster carer couple. Child B was a UASC from Iran, a practicing Muslim and was able to speak little English. The foster carers are also Asian Muslims and were perfectly suited to the needs of Child B. The LA was in agreement that the proposed FCs were perfect match and accepted the placement. I must reiterate that the decision to accept a placement is not taken by us but by the LA who screens through different FC proposal for a placement and chooses the best. Prior to taking placement of Child B, the FCs have had great experience of looking after UASC children. Prior to taking Child B’s placement the FCs looked after two UASC brothers SO (16 Yrs) & MO (15 Yrs). They were in placement from Dec 2015 till August 2016 and were very well settled in the placement and did extremely well academically and overall, they moved to semi-independent accommodation in August 2016. The FCs have attended numerous training, including training on Caring for Asylum seeking refugee children, delivered by Social Care Training Consultants. Child B went on to stay in placement with the FCs, under Stay Put policy, thus demonstrating commitment of FC to the children they look after.”

198. In his oral evidence Mr Gupta again said that although his name was on this checklist, he did not complete it.
199. Mr Gupta again asserted that the checklists were irrelevant as reliance was placed on emails.
200. Mr Gupta denied overall responsibility for the checklists.
201. Mr Gupta suggested that the foster carers had in fact received relevant training in a support group.
202. Mr Gupta said that Child B was placed with experienced foster carers who “did a great job”.

Panel Decision

203. The panel did not accept Mr Gupta’s evidence regarding the irrelevance of the Matching Checklist, for the same reasons as set out in its decision on Charge 4(a).
204. The panel did not accept that Mr Gupta held no responsibility for this checklist. He was the only person named on it. In any event, as RI Mr Gupta was jointly responsible for the adequacy of the matches, for the reasons set out earlier in this decision in the section entitled “Responsibility”.
205. The panel accepted MM’s evidence regarding the lack of relevant training.

206. In any event the panel was satisfied that there was no analysis or information recorded on the matching checklist as to how the foster carers would meet the needs of Child B, who was an unaccompanied asylum-seeking child.

207. Accordingly, the panel found Charge 4(c) proved.

d) Child A's matching checklist dated 1 June 2017 was inadequate in that;

i) Matching was primarily based on language and religion.

ii) The carers gaps in knowledge and skills were not identified in relation to child A's complex emotional needs and learning difficulties

Social Work England's Case

208. Child A was placed with Foster Carer MC in June 2017. The matching checklist, dated 1 June 2017, contained the names of AT, Mr Gupta and Ms Panwar.

209. MM gave evidence that the match appeared to have been made solely on the basis of language and religion.

210. The referral information from the local authority identified that Child A was *'learning disabled'* and had *"complex emotional needs and therefore ideally requires a carer who is experienced in working with teenagers who self-harm and have learning difficulties."* Reference was also made to previous assaults on foster carers, previous allegations made by Child A, a history of self-harm, concerns in relation to Child A's use of the internet and that *"[Child A] struggles to manage her emotions and this can often result in angry outbursts and self-harming behaviour"*.

211. MM noted that though the matching checklist referred to the referral information, it did not mention how Foster Carer MC would meet Child A's needs or safeguard Child A.

212. MM said that Foster Carer MC had only undertaken training in Paediatric First Aid, Safeguarding and Child Protection (covering Female Genital Mutilation "FGM" and Online Grooming). Foster Carer MC had attended a Support Group and was working towards an NVQ. Foster Carer MC had not received training in the areas of CSE, missing incidents, self-harm, physical assault to others, mental health, learning disabilities, aggressive outbursts or personal hygiene.

213. MM identified that Foster Carer MC demonstrated a lack of understanding in relation to supporting children, such as Child A, who had a learning disability, mental health needs and had suffered neglect, in that Foster Carer MC focussed on Child A's room being untidy/unhygienic and sought to end the placement as a result. MM

noted that it did not appear that Foster Carer MC understood that Child A's history meant that she had not learned how to be more independent.

214. MM said that in addition to this, the lack of understanding around self-harm and Child A's mental health needs resulted in Foster Carer MC shouting at Child A which impacted on Child A's wellbeing and led to an increase in incidents of self-harm and incidents between Child A and Foster Carer MC, which led to the breakdown of the placement.
215. MM said that these gaps in Foster Carer MC's knowledge and skills and how she would meet the needs of Child A, given her learning disabilities and complex emotional needs, were not identified at the matching stage.
216. MM said that it was clear that the agency had been provided with the relevant information by the local authority, as some of it was set out within the matching checklist and quoted directly. Asked about the suggestion that the agency was provided with "*virtually none*" of this information at the matching stage, MM said that in relation to Child A that suggestion was totally incorrect.

Mr Gupta's Case

217. In his written submissions for the final hearing, Mr Gupta asserted that it was never agency policy to match a child based primarily on language and religion, though this was a significant part of a child's needs. Mr Gupta also highlighted that matching at the time of accepting the placement is based on the information provided by the placing local authority to the agency. He claimed that in the case of Child A, "*virtually none*" of the information was made available.
218. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"Matching was done based on needs of the child A and the ability of the foster carers to meet the needs. The Agency policy has never been to match a child primarily based on language and religion; however they are also a significant part of a child's need of love, affection and safeguarding along with any other of his needs."

It needs to be understood that matching at the time of accepting the placement is done based on the information made available to the Agency by the Local Authority. A lot of time a lot of information regarding needs of a child is not disclosed in the referral made available by the LAs, unfortunately, to speed the finding of a placement by the LAs. If the placement is made out of hours or in emergency virtually none of the information is made available, as was in the case of child A. This has remained a challenge. Once a placement is made and as we go along the true needs become evident and to avoid rejection the better option, unless the placement

becomes a safeguarding issue for the child or the members of the FC's family, effort is made to make the placement stable and invest in the child.

As the person leading the team I take full responsibility for the shortcomings, if there were any, in the matching process and the paperwork completed in the process of matching. At the time of Ofsted involvement the consultant hired was assigned the job of making improvements in this area and work was in progress. I could have liaised with IFA partners to learn about better matching processes, if there were any."

219. In his oral evidence Mr Gupta again said that although his name was on this checklist he did not complete it.
220. He relied on his defence that the checklists were irrelevant as reliance was placed on emails.
221. Mr Gupta denied overall responsibility for the checklists.
222. Mr Gupta again suggested that the referral from the local authority did not provide any information about Child A's complex emotional needs and learning difficulties. He said that on the first occasion when this child was placed, it was an emergency, and not much information was available to FFL. He said that the usual protocol had to be put to one side in order to prioritise finding a shelter for the child. He argued that FFL and the foster carer did a good job for Child A.

Panel Decision

223. The panel did not accept Mr Gupta's evidence regarding the irrelevance of the matching checklist, for the same reasons as set out in its decision on Charge 4(a).
231. The panel did not accept that Mr Gupta had no responsibility for this checklist. His name was on it, together with Ms Panwar and AT. In any event, as RI Mr Gupta was jointly responsible for the adequacy of the matches, for the reasons set out earlier in this decision in the section entitled "Responsibility".
232. The panel accepted the unchallenged evidence that Foster Carer MC had not received training relevant to the child's needs, such as CSE, missing incidents, self-harm, physical assault to others, mental health, learning disabilities, aggressive outbursts or personal hygiene.
233. The panel concluded that the only aspects of the matching checklist which directly compared Child A and Foster Carer MC were those sections relating to language and religion. There was no other rationale or analysis documented as to why or how Foster Carer MC could meet the needs of this child.

234. The panel did not accept Mr Gupta's suggestion that the local authority provided little information about Child A at the time of the placement. That was clearly not the case as some of it was set out within the matching checklist and quoted directly.
235. Information about Child A's complex emotional needs and learning difficulties was recorded on the matching checklist, but there was no analysis, or comparison, of Child A's needs with Foster Carer MC's skills, knowledge or experience.
236. Accordingly, the panel found Charge 4(d) proved.

Head of Charge 5: Between July 2014 and 13 April 2018, you did not ensure that risk assessments were adequately completed and/or updated by the supervising social workers in one or more of the cases identified at Schedule 1;

Social Work England's Case

237. It was alleged by Social Work England, on the basis of the oral evidence given by HL and MM and the documentation produced by them, that the risk assessments for placements of children with foster carers carried out by FFL were inadequate and that the RM, RI and staff demonstrated insufficient understanding of the signs and symptoms of children who are at risk. "Safer Care Plans" were referred to by FFL in children's risk assessments, though the document was, in fact, entitled "Household Safer Care Policy Template". This document is usually used by an agency to detail how the foster carers propose to make their home as safe as reasonably practicable, emotionally and physically, for the carers, their family and the child being placed.
238. It was alleged that IFAs must demonstrate that they have an understanding of the risks to individual children, strategies to mitigate them and demonstrate that they are able to safeguard the child. This is required by Regulation 11 and 12 and NMS 4.
239. It was alleged that risk assessments can be completed by qualified or unqualified members of staff but if the latter, must be overseen and signed off by a qualified member of staff. Risk assessments should be overseen by the RM, and overall practice in the agency should be monitored by the RI. The failure by staff to complete adequate risk assessments and the failure by Ms Panwar and Mr Gupta to ensure the quality of those risk assessments was a breach of Regulation 11 and NMS 4.

240. It was alleged that the responsibility to ensure accuracy and quality of a risk assessment lies with the person completing it, the RM in their monitoring of it and the RI should be assured that the agency is operating in line with the Regulations. In relation to whose responsibility it is to ensure that risk assessments are properly completed and/or supervised, Regulations 5 and 8(1) apply: the RI is responsible for supervising the management of the fostering agency, and the Registered Provider and the RM must carry on or manage the fostering agency with sufficient care, competence and skill.

Child CN

Social Work England's Case

241. A risk assessment for Child CN, dated July 2014, updated July 2017 was produced. The safer care plan for Child CN dated August 2014, updated 28 July 2017 was also produced.
242. The risk assessment did not include information about a previous incident in which Child CN left a tap running and damaged a roof which caused the foster carer to seek a financial contribution from either FFL or the local authority. The risk assessment had not been updated after this incident, or others, including concerns raised in relation to gang involvement and Child CN's sporadic engagement with education. The safer care plan did not inform the carer how to keep Child CN safe.
243. Child CN had previously gone missing from his placement; the risk assessment/safer care plans provided only weak strategies to reduce/mitigate the risk of missing incidents. For example, they did not suggest a curfew. They did not provide advice for foster carers as to what to do in the case of a missing incident, other than report the child missing. The risk assessment does not provide a timeframe for this. The risk assessment had not been updated after missing incidents.
244. Child CN's safer care plan referred to Child CN's use of the internet, but only referred to the foster carer monitoring his internet use, no strategies to do so were identified, and an assertion that the children were aware not to click on any "*strange looking things*".

Child EN

Social Work England's Case

245. Child EN was the sibling of Child CN and was also placed with Foster Carer AM. MM reviewed Child EN's risk assessment and stated that it had not been

updated since December 2015, and no risks were identified within the risk assessment. MM also said that the safer care plan for EN was “poor”. She said that at the time of the inspection, the child was 8 and using the internet, but [that was] not reflected in the risk assessment. It needed to be updated and the information should be coherent throughout all the documents.

Child AL

Social Work England’s Case

246. Child AL was also placed with Foster Carer AM. On reviewing the files, MM noted that there was no paperwork relating to Child AL in Foster Carer AM’s file. MM said that, as a result, there was no evidence to demonstrate that the foster carer was aware of Child AL’s needs, any risks to him, or how to safeguard him.

247. A risk assessment and safer care plan for Child AL were provided by Person 12 on 24 January 2018, however, this related to his previous placement and contained the names of his previous carers.

Child MH

Social Work England’s Case

248. Child MH was placed with Foster Carer MC. MM reviewed the placement risk assessment dated 17 July 2017 and updated 30 November 2017 which had been completed by Ana as the supervising social worker, with Ms Panwar listed as ‘Fostering Team Manager’.

249. MM said that strategies to minimise or prevent risks of child sexual exploitation (CSE), missing incidents, self-harm and physical assault to others were weak. MM said that there was a focus on the foster carer undergoing training in the future. For example, in relation to physical aggression, the risk assessment advised, *“Foster Carer to receive training about child abuse and challenging behaviour”* and to contact the agency for advice. The advice should have been contained within the risk assessment document itself. The risk assessment did not advise of any de-escalation strategies and there was no separate risk assessment/protocol for missing incidents or self-harm, though Child MH had a known history of self-harm.

250. Though Child MH was known to use ‘online chat rooms’ there was no information contained about internet safety within the risk assessment. Child MH also had a mobile phone with access to the internet and had Facebook, Instagram and Snapchat accounts which were not addressed by the risk assessment.

251. In addition to this, information gathered by MM from Child MH's progress reports was not included or addressed within the risk assessment. This information included reports of Child MH's low mood, five missing episodes, that Foster Carer MC had found blades in her room and that Child MH had been admitted to hospital three times for self-harm and once for alcohol use. The risk assessment (incorrectly) stated that there was no risk in relation to alcohol use for Child MH.
252. MM also considered the Safer Care Practice for Foster Carers document dated 3 August 2017. MM said that the safer care plan document was extremely poor as it was not individualised and did not provide sufficient information to the carer as to how to keep Child MH safe, especially given that Child MH was at high risk of CSE, missing incidents, online grooming and self-harm.

Child SM

Social Work England's Case

253. Child SM was placed with Foster Carer SA. MM reviewed the placement risk assessment dated February 2017 and updated 19 May 2016 (these dates appear to have been entered on the assessment incorrectly) which was completed by PD as the supervising social worker, with Ms Panwar listed as fostering team manager.
254. MM said that the risk assessment was extremely poor in that it lacked sufficient guidance to the foster carer about how to protect Child SM. The risk assessment focussed on monitoring (for example, strategies around substance misuse) and did not advise how to support the child, reduce risk and protect her. There were no preventative strategies around Child SM going missing and no advice for the foster carer on what to do when she returned, though Child SM had a history of going missing regularly for long periods of time.
255. In addition, the risk assessment provided no/poor strategies to manage the risk of exploitation, substance misuse, gang involvement and online safety. Throughout, the risk assessment focussed on asking for advice, when the advice should be provided within the risk assessment itself.
256. The risk assessment did not include any information in relation to Child SM's disruptive behaviour at school, inconsistent attendance, stealing of school property and being provocative to police officers.
257. Information recorded in relation to concerns raised by police about Child SM's risk of CSE was not appropriately explored within the risk assessment in that it was listed under "Sexualised Behaviour" which, MM said, demonstrated a lack of understanding of the two different risk factors. There was, as above, a focus on the

foster carer asking for advice, rather than the advice being contained within the risk assessment.

258. Concerns had been raised by the supervising social worker's records for December 2017, which included concerns about sexual activity and an allegation that Child SM may be harmed if she went to a certain area. None of these concerns were reflected in an updated risk assessment.

259. MM reviewed the safer care plan document completed in September 2016 and updated 12 May 2017. MM said that the safer care plan did not advise of any identified risks, how the foster carer should monitor these or what to look out for. For example, the risks in relation to missing incidents, CSE and gang activity were listed in the "Other areas to consider" section of the Safer Care document with the following note:

"[Foster Carer SA] is aware of the above issues and should any of these issues arise, they will talk to Tayyeb and get advice and support from Future Fostering and Local Authority."

260. MM said that Child SM was at risk from missing incidents, CSE and gang activity, but there were no strategies to guide the foster carer as to how to protect the child.

261. In relation to internet safety, the safer care plan only identified that Foster Carer SA was to *"monitor Child SM's internet/social media usage where possible"*. It did not advise the foster carer as to any risks, how the carer should monitor internet usage or what to look out for.

262. Though it had been highlighted during the December 2017 visit that Child SM was at high risk, the risk assessment and safer care plans were not reviewed or updated following the December 2017 visit and no attempts had been made by FFL to improve the plans or to support Foster Carer SA in supporting Child SM by, for example, providing further training.

Child AS and Child NS

263. Child AS and their sibling Child NS were placed with Foster Carers FD and MH.

264. At the December 2017 visit, there was no risk assessment for either the sibling group together or individually.

265. The safer care plan was a single document for all four children (Child AS, Child NS, Child RR and Child CM) placed with the foster carers. It contained generalised statements and was not individualised. There was no information on

the risk factors for the young people in the placement and no information on how to keep them safe.

266. By the January 2018 visit, there was still no risk assessment and the safer care plan had not been updated. Consequently, the risks to both children were unknown to the foster carers, and this was not rectified.

Child RR

Social Work England's Case

267. Child RR was an unaccompanied minor who was also placed with Foster Carers FD and MH.
268. At the December 2017 visit, MM reviewed the risk assessment for Child RR dated 5 April 2017 and updated 28 June 2017 which had been completed by Person 12. The risk assessment contained no analysis; it was not therefore known what the risk factors Child RR had or how carers should mitigate them.
269. The risk assessment had been updated to include a reference to smoking, but then referred the foster carers to the safer care plan, which did not contain any further information.
270. The safer care plan was one document for all four children placed with Foster Carers FD and MH. It contained generalised statements and was not individualised. There was no information on the risk factors for the young people in the placement and no information on how to keep them safe. MM said that the safer care plan made little reference to Child RR or Child CM.
271. At the January 2018 Visit, the safer care plan had not been updated and the same risk assessment was being used.

Child CM

272. Child CM was an unaccompanied minor and was also placed with Foster Carers FD and MH.
273. Child CM's risk assessment was completed by Person 12 and was dated 8 February 2017, updated 20 September 2017. The risk assessment contained no analysis and did not identify any risk factors or give information or advice as to how the carers should mitigate them.
274. The risk assessment referred to the safer care plan. The safer care plan was one document for all four children placed with Foster Carers FD and MH. It contained generalised statements and was not individualised. There was no

information on the risk factors for the young people in the placement and no information on how to keep them safe. MM said that the safer care plan made little reference to Child RR or Child CM.

Child WK

Social Work England's Case

275. The risk assessment for Child WK was dated January 2017 and had been completed by Person 12 with Ms Panwar listed as the fostering team manager.
276. The risk assessment was very general, out of date and addressed only some of the vulnerabilities of the child with a tick box list. It did not set out what action should be taken to address the risks and did nothing to reduce harm or the risk of harm. In the case of Child WK, the risks of self-harm were clearly not being minimised or effectively addressed as she had been hospitalised for a serious incident of self-harm.
277. FFL's own self harming policy provided: *"If there is any suspicion that the child may be involved in self-harming, the supervising social worker as well as the social worker must be informed and a risk assessment and management document completed with a view to deciding whether a Strategy should be adopted to reduce or prevent the behaviour."* No such risk assessment and management document had been completed for Child WK.
278. HL said that the risk assessment did not cover internet/Youtube/phone use. This should have been identified as a risk to Child WK and the risk assessment should have provided information and strategies to enable to foster carers to ensure that Child WK was safely using the internet, Youtube, her phone etc. In the foster carer's January 2018 recordings it was noted that the risk assessment had not remedied the issue identified in relation to lack of risk analysis relating to internet/Youtube/phone use. HL observed that the blanket statement for the foster carer to "constantly supervise" the child's internet/phone/Youtube use was not a viable risk management strategy. The carer was single and would have needed to eat, cook, get dressed etc.
279. HL said that there should have been a clear risk assessment in place/chronology to map self-harming with triggers and incidents. HL noted that the escalation of Child WK's self-harming behaviours could have been prevented if there had been a greater degree of awareness of her self-harming risk and if effective strategies had been agreed and reviewed.

Child IRP and Child IQP

Social Work England's Case

280. Children IRP and IQP were siblings who were placed initially with Foster Carer TT in around February 2017. They were moved in March 2017 to Foster Carer AA due to concerns around risks associated with their birth mother.
281. The risk assessment for each child and both foster carers were produced, as were the safer care plans.
282. The risk assessments for the placement with Foster Carer TT did not contain the name of the person who completed them. The risk assessments for Foster Carer AA contained the names of PD and Ms Panwar.
283. The risk assessments for the placement with Foster Carer TT were very poor and did not contain strategies to protect the children.
284. The risk assessments for Child IRP and IQP were not updated after incidents. The lack of updates to the risk assessments meant that Foster Carer AA may not have been aware of incidents that took place when the children were at Foster Carer TT's, such as: the foster carer needing to monitor dropping off and collecting at school due to concerns about their birth mother attending their school; the foster carer needing to monitor children's pocket money as there was a concern the birth mother may have been using the children's pocket money to buy drugs and an incident of the children's birth mother abducting them from school on 10 March 2017. MM said that she was concerned that incidents were not being reviewed to ensure that all appropriate actions had been taken to safeguard the children and that all professionals were made aware of the concerns.
285. Concerns identified around the children's hygiene, medication, emotional outbursts, their sister-to-sister relationship, the birth mother abducting them (and the need to monitor dropping off and collecting from school) and pocket money were not recorded or explored within the risk assessments of the safer care plans.
286. When the children were returned to Foster Carer TT's care in December 2017, information in relation to contact with their birth mother was not included in the risk assessments and they did not address the issue of the children having been given a mobile phone by their birth mother, or an incident where one of the children left school to meet somebody.
287. The risk assessments had not been reviewed or updated since April 2017. The majority of areas in the risk assessment were blank and no risks had been identified, including the concerns outlined above, and both of the risk assessments (for Child IRP and IQP) were exactly the same. Similarly, the safer care practice

document, completed by PD, was dated April 2017 and had not been updated since.

Mr Gupta's Case

288. In his written submissions to the ICP, Mr Gupta asserted that FFL had clear expectations of the supervising social workers in relation to risk assessments. He claimed that they were independently responsible for the completion and updating of the assessments in a timely manner. Mr Gupta asserted that the risk assessment template used was very similar to that used by Islington and Enfield London Boroughs. Mr Gupta denied conducting any direct casework himself and denied supervising any supervising social workers. Mr Gupta suggested that risk assessments were adequately completed and were "timely updated on each placement".

289. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"Future Fostering had clear expectations from SSWs regarding risk assessments. Allocated SSWs were responsible for completing and updating the risk assessments, on a timely manner. I did not have direct case work responsibility. The risk assessment template used by Future Fostering was very similar to the one used by a few London Boroughs Islington and Enfield being one of the few. Management direction and expectation were for the Risk assessments to be adequately completed and timely updated after each accident/incident on each placement. Also to be noted is the fact that there was and is no set industry standard that defies what a perfect risk assessment was. If there was we would have definitely used it. I had asked for one from Ofsted when they visited us only to be told "we are not your consultants", by the inspectors. Feedback on what and where to improve would have helped the Agency improve.

From reading the testimony of SSW Prabhu it would appear that not after every incident/accident he would update the risk assessment which was not what was expected of him. His admission would confirm that the agency expectation was otherwise and that despite knowing the expectation he was instead relying on daily case and supervision notes. Omissions in the cases picked up by Ofsted should be looked in as individual cases of team members not complying with management expectations.

As the person leading the team I take full responsibility for the shortcomings. The Agency had clear expectations that reports must be recorded within 10 days of any home visit / meetings. Bust the Agency did not develop any monitoring system to monitor whether this was happening and I take full responsibility for this failure."

290. In his oral evidence Mr Gupta repeated that he never completed risk assessments himself. He said that the supervising social workers were responsible for going about their work independently, including completing and updating risk assessments. Ms Panwar was responsible in turn for supervising the supervising social workers.
291. Mr Gupta asserted that there was a management expectation that supervising social workers were to complete an adequate risk assessment for each child and update them after each incident.
292. Mr Gupta denied that he had a duty as RI, together with Ms Panwar as RM, to ensure that the assessments were completed or updated adequately.
293. Mr Gupta said that whilst any risk assessment could be improved in retrospect, he believed the risk assessments to be of a good standard. He then added that he had not looked through them in detail. He said that whether the assessments were adequate or not was for someone else to decide because he had nothing to do with them.
294. Mr Gupta also relied on the written statement of PD. He said that PD had accepted that he had not completed assessments in good time, in particular in relation to Child SM, Child IRP and Child IQP.
295. In his written statement, PD accepted that he did not update the risk assessment after every incident. PD said that he did not think this was expected of him.

Panel Decision

296. In evidence Mr Gupta said that the management expectation about risk assessments was communicated to supervising social workers by way of a recording policy, which was made clear to them at the beginning of their employment, and by way of team meetings, which happened approximately every six weeks. Mr Gupta said he was present at some of those team meetings if there was an issue concerning business or finance.
297. When MM was asked whether she saw any evidence of a management direction or expectation being communicated to the supervising social workers regarding the timely updating of risk assessments, she replied that in the first visit: *"There was no evidence of that communication whatsoever. There was evidence from one of the consultants having discussions with the SSW in the second [January] Visit, but in practice, we didn't see it having any impact on risk assessments or support [for foster carers]. As to the direction coming directly from the RI and RM, that was not the case"*.

298. Mr Gupta asserted that Ms Panwar checked the risk assessments and gave feedback. There was no documentary evidence of this provided to the panel.

299. MM said that there was no evidence to suggest that the supervising social workers had received messages from the RI and RM regarding management expectations. There was no evidence to suggest that the RI and RM were monitoring and quality assuring the work completed. There was no evidence to suggest that Mr Gupta or Ms Panwar saw the quality of the risk assessments as a problem. There was no evidence to suggest that the position changed after the concerns had been raised in the December visit.

300. When asked about the existence of any evidence of any clear management direction to social workers as to the need to update and adequately complete risk assessments, HL said she would have expected to see;

“ a clear written policy, a clear embedding of that policy through training and through team meetings, and through wider risk assessment training of your staff. Then I would ask what would be the assurances and management for your oversight that risk assessments are completed, part of a responsibility to supervise a supervising social worker is that you would oversee and verify the work they are producing, part of that would be to look at the risk assessments they are writing and to review those in that supervision. So you should have many mechanisms in place, whatever you might call it, team meetings, practice meetings, there are is a wealth of tools as a manager you could use to ensure that you are seeing that risk assessment constantly and that you are ensuring that those staff members work to your guidance and expectations. I did not see that evidence”.

301. HL also said that following the Ofsted Visits in September and December 2017, only two risk assessments had been reviewed and updated by the time of the January 2018 Visit. The panel accepted Social Work England’s submission that this undermined the suggestion that the failings were simply the individual failings of supervising social workers; the concerns around the quality of the risk assessments were brought to the agency’s attention during the December visit.

302. The panel concluded, for the reasons set out earlier in its decision on “Responsibility”, that both the RM and the RI had a duty to ensure that the quality of work completed by the agency was adequate so that children were being effectively safeguarded. This responsibility included ensuring that the risk assessments were adequately completed and updated by the supervising social workers. Mr Gupta had a responsibility to ensure that the agency was operating in line with the Regulations. As has been clarified earlier in this decision, Regulations 5 and 8(1) specify that the RI is responsible for supervising the management of the

fostering agency, and the Registered Provider and the RM must carry on or manage the fostering agency with sufficient care, competence and skill.

303. The panel considered with care each of the assessments identified in Schedule 1. It concluded that in each instance the risk assessments had either not been completed or not been updated adequately. That conclusion was reached on the basis of the documentation produced and the evidence provided by MM and HL, as summarised above, which was clear and thorough.

304. It was submitted on behalf of Social Work England, and the panel accepted, that the concerns relating to the Schedule 1 risk assessments were wide ranging. Some children did not have a risk assessment in place; some had a risk assessment that had not been updated for years; others were not updated after significant incidents; and others were insufficiently detailed in that they did not provide the foster carer with strategies to mitigate risk or did not identify all of the relevant risks for the children.

305. For those reasons the panel found the Charge 5 proved in relation to each and every child specified in Schedule 1.

Head of Charge 6: Between 13 October 2010 and 13 April 2018, you did not ensure that agency staff and/or foster carers identified in Schedule 2 had the appropriate training to take action in response to risk factors

Social Work England's Case

306. Social Work England relied on the concerns expressed by MM and HL as to the adequacy of training provided by the agency to foster carers and staff.

307. The requirements are set out in Regulations 17 and NMS 20 and 21 (for foster carers) and Regulation 21 and NMS 23 (for staff). NMS 6.7, 6.8, 12.3 and 20 also refer to specific areas that staff and carers should have training in such as safeguarding and health and hygiene. The NMS sets out a minimum. Regulation 17 provides that

"The fostering service provider must provide foster parents with such training, advice, information and support, including support outside office hours, as appears necessary in the interests of children placed with them".

308. A list of foster carer training that should have been undertaken as a minimum, under the NMS, was compiled by HL during the December 2017 visit.

309. The inspectors noted that there appeared to be gaps in foster carers' training which remained unidentified and therefore not addressed. The lack of training was a breach of Regulations 17 and 21, and also Regulation 11(a) to promote welfare and protect children.

310. Mr Gupta, as the RI, and Ms Panwar, as the RM, were responsible for ensuring the agency's compliance with the Regulations and NMS.

Foster Carer AM

Social Work England's Case

311. Child CN was placed with Foster Carer AM.

312. MM reviewed the record of Foster Carer AM's training during the January 2018 Visit. It was noted that Foster Carer AM had not attended training relating to absconding (also referred to as 'missing incidents').

313. MM also noted that Foster Carer AM had not completed Training Support and Development Standards (TSDS) as required by foster carers.

314. MM said that this training was necessary for Foster Carer AM as Child CN, who was placed with her, had a propensity to go missing.

Foster Carer MC

Social Work England's Case

315. Child MH was placed with Foster Carer MC in July 2017.

316. Foster Carer MC had only had training in Paediatric First Aid, Safeguarding and Child Protection (covering FGM and Online Grooming). She had attended a support group and was working towards an NVQ.

317. Foster Carer MC had not had training in the areas of child sexual exploitation, absconding, mental health and self-harm, behaviour difficulties, including physical assaults to others, aggressive outbursts and personal hygiene.

318. The risk assessment for Child MH identified areas of training which Foster Carer MC needed to undertake. These included child sexual exploitation and areas of behaviour difficulties and mental health, such as self-harm, learning disabilities, child abuse, challenging behaviours.

319. At the time of Foster Carer MC's annual review in October 2017, it was identified that she needed to undertake training in relation to CSE, self-harm, learning disabilities and young people with complex emotional needs. Foster Carer

MC had therefore not completed sufficient training to be able to meet the needs of or safeguard Child MH.

320. At the January 2018 visit a personal development plan (PDP) was provided to MM and HL by FFL. The PDP showed no analysis of the concerns raised in relation to Foster MC's ability and understanding, particularly around her ability to care for children who have experienced severe neglect and have a learning disability or a mental health condition. None of those areas had been identified as a learning need and no training had been provided. There was no rationale for the training offered.

321. An updated training matrix was provided at the January 2018 visit, which showed that Foster Carer MC had attended safeguarding training in January 2018. The content of this course could not be verified as Mr Gupta did not provide that information to the inspectors.

Foster Carer SA

Social Work England's Case

322. Child SM was placed with Foster Carer SA in around December 2016.

323. At the time of the December 2017 visit, the training record for Foster Carer SA demonstrated that she had received training in Skills to Foster and Paediatric First Aid (Parts 1 and 2). Training identified for completion in 2017 was: managing aggression, managing challenging behaviour, safeguarding and child protection covering FGM and online grooming and caring for asylum seeking refugee children.

324. The supervising social worker, PD, confirmed to MM during the December 2017 Visit that Foster Carer SA had not undertaken training in CSE, gangs, substance misuse or safeguarding.

325. Foster Carer SA had not therefore completed the training required to be able to meet Child SM's needs and keep her safe. Foster Carer SA had not completed training in safeguarding, grooming/CSE, absconding or gangs, all which would have been necessary given the risks to Child SM. Child SM's challenging behaviour in the form of verbal aggression had not been identified by FFL's risk assessment and Foster Carer SA had not received any training in relation to managing this.

326. During the January 2018 visit, MM noted that the only training completed by Foster Carer SA since the previous visit was safeguarding training undertaken in January 2018. No other training had been provided and there was no development plan in place for this carer.

Foster Carers FD and MH

Social Work England's Case

327. Children AS, NS, RR and CM were placed with Foster Carers FD and MH.
328. The foster carer training matrix identified that Foster Carers FD and MH had only had training in "Skills to Foster", Child Protection and Safeguarding, Working with Looked After Children (LAC) who have lived with Domestic Violence and Abuse, Paediatric First Aid, Managing Aggression and Challenging Behaviour, Safeguarding and Child Protection (covering FGM and Online Grooming), Self-harming and finances (Support Group).
329. Foster Carers FD and MH had two unaccompanied children seeking asylum placed with them (Child RR and Child CM). They should therefore have received training on how to support these children, including training on exploitation. MM also noted that the Foster Carers had not completed the TSDS, which are mandatory.
330. By the January 2018 visit, no further training had been carried out.

Foster Carer NS

Social Work England's Case

331. Child WK was placed with Foster Carer NS in January 2017.
332. HL reviewed Foster Carer NS's training and noted that they had not received training on mental health or self-harming, though these were particular risks to Child WK. Foster Carer NS had attended one support group run by Mr Gupta on self-harming. This was not sufficient to give the carer clear strategies that could be assessed for trends and patterns.
333. An extract from the Form F document for Foster Carer NS identified that the foster carer would *"benefit from training on managing sexualised behaviour/sexual abuse, preparing children for independence, managing overt behavioural difficulties and teenage issues"*. This demonstrated that the foster carer was not sufficiently trained in those areas at the time of the completion of the Form F.
334. Similarly, at the foster carer's annual review in August 2017, it was identified that Foster Carer NS should have training on how to work with survivors of sexual abuse. This had not been undertaken though Child WK had been subjected to sexual abuse and had been placed with Foster Carer NS since January 2017.
335. HL produced an extract from the carer's personal development plan, which identified that key areas, including safer caring and missing incidents/absconding had not been undertaken. These are all areas of training required by the NMS. HL

concluded that there was a lack of training in key areas, including challenging behaviour, self-harm, mental health of children, CSE and caring for children who had been sexually abused. These conclusions were recorded by HL in a table comparing the training requirements by the NMS to the training evidenced by Foster Carer NS.

336. During the January 2018 visit, HL noted that Foster Carer NS had not received any further training, leaving her with no training in safer caring, Missing from Home (MFH), CSE, health, complex health needs, delegated authority, health and safety, or sexually abused children. A self-harm training support group that Foster Carer NS had attended had been run by Mr Gupta, who was not certified in self-harm training himself.

Foster Carer AA

Social Work England's Case

337. As above, Children IRP and IQP, who are sisters, were placed with Foster Carer AA from around March 2017 until December 2017.
338. MM noted that Foster Carer AA had not received any training since 2014. Foster carers are expected to undertake regular training to show continuous professional development under NMS 20.4. An ongoing training and development portfolio should have been maintained for each of the foster carers, no such portfolio was in place for Foster Carer AA or any of the other foster carers who were case tracked by the Inspectors.
339. Foster Carer AA had not undergone training to address the needs and risks of Child IRP and IQP as required by NMS 17, such as the identified concerns around the children's hygiene, medication, emotional outbursts, their sister-to-sister relationship and risks of abduction by their birth mother. Foster Carer AA had not undergone training in de-escalation of incidents of challenging behaviour which was particularly relevant given the incident recorded in December 2017, as well as appropriate safer-care practice, including skills to care for children who have been abused, which is safeguarding training, as well as training on health and hygiene issues and first aid.

Foster Carer TT

Social Work England's Case

340. As above, Children IRP and IQP, who are sisters, were placed with Foster Carer TT in or around February 2017 until March 2017, when they moved to Foster

Carer AA. In December 2017, the children were placed with different foster carers for respite, however, as a result of the respite carer's Form Fs not being appropriately completed, the children were returned to Foster Carer TT. On 18 December 2017, there was an incident where Child IRP was violent towards Foster Carer TT and the placement ended on 21 December 2017.

341. The documents provided by FFL which set out Foster Carer TT's training demonstrated limited training. Foster Carer TT had not undergone training in CSE, grooming, or challenging behaviour. The documents also identified that Foster Carer TT had not had safeguarding training until January 2018. There was no evidence that the foster carer had completed other training required by the NMS, such as TSDS as required by NMS 20.

342. The incident recorded on 18 December 2017 identified a need for *"Future Fostering to provide training around challenging behaviour"*. Other than safeguarding training, by the time of the January 2018 visit, no further training had been provided to Foster Carer TT.

Foster Carers MV and SV

Social Work England's Case

343. AT (supervising social worker) informed HL during the December 2017 visit that Foster Carers MV and SV had not completed any training but that she had provided a training list and *"hope[d] they will be completing training before next year."*

344. The Form F (undated) identified various training that was described as "ongoing", none of which had been completed at the time of the December 2017 visit. This was highlighted by the training matrix provided by FFL, which demonstrated that Foster Carers MV and SV had not undertaken any training.

Foster Carers NP and MP

Social Work England's Case

345. MM had noted the concerns raised in relation to these foster carers during the December 2017 visit which included poor attendance at training. MM noted that the foster carers had not undertaken safeguarding training and had only completed one training since May 2015 and none since March 2017.

346. The FFL training matrix showed that the foster carers attended safeguarding training in 2018.

347. There was no evidence that the carers had completed the TSDS for foster carers as required by NMS 20 or any of the training required by the NMS, which included safeguarding training until 2018.

Foster Carer BK

Social Work England's Case

348. HL noted concerns around the level of training received by Foster Carer BK in that Foster Carer BK had only attended "Skills to Foster", support groups, Parenting Model and Children's Workforce Development Council's training.
349. The foster carer's training record provided was inconsistent with the training matrix provided by FFL, which indicated that Foster Carer BK had also attended Safeguarding and Child Protection training and paediatric first aid training in 2017.
350. HL concluded that Foster Carer BK had not received sufficient training to enable her to care for children with complex needs, such as Child RH who was placed with her.
351. Child RH was a vulnerable young man with possible ADHD/Autism and behavioural difficulties.

Foster Carer HE

Social Work England's Case

352. On review of the documents relating to Foster Carer HE, HL identified that Foster Carer HE had received a lack of relevant training which had not been identified at the matching stage or at the foster carer's review.
353. The foster carer training matrix demonstrated that Foster Carer HE had not undertaken any training during 2017 and 2018.
354. HL noted that Foster Carer HE had not received training in relation to self-harm or caring for children who had suffered sexual abuse, notwithstanding that she had been approved to foster children who had been sexually abused and should have been provided with appropriate training by FFL.

Agency Staff

Social Work England's Case

355. Overall, MM concluded that there was a lack of staff training which meant that staff did not have the necessary training and knowledge to be able to identify if a child was at risk.
356. During the December 2017 Visit, MM noted in relation to supervising social worker training:
- “have not had up to date training in subjects such as safeguarding, child exploitation, self-harm to provide sufficient guidance and advice to keep children safe and promote their welfare. For example, two children with complex needs and who were at high risk of exploitation were placed with inexperienced carers who were supervised by supervising social workers who had not completed any training in this area. Consequently, they lacked understanding of the significance of the children missing and behaviours and did not take sufficient action to protect the child. Consequently, both children remained at significant risk throughout the placement. One of these children also had a learning disability and significant mental health concerns resulting in self harming behaviour. The supervising social worker had not completed training in any of these areas and lacked insight into the detrimental impact the foster carers approach had on this child whilst she was in the foster carers care. As a result, the supervising social worker failed to intervene resulting in a failure to meet the child’s emotional and psychological needs.”*
357. PD (one of the supervising social workers) advised HL during the December 2017 visit that he had only completed first aid training and training in supporting asylum seeking children. He advised that he had not completed safeguarding training this year (2017) and that he may have done training on trafficking in March 2017. PD confirmed that he had not completed any training in CSE or gang related risks.
358. MM reviewed supervision records for some of the social work staff and noted that, in relation to PD and AT, there were no discussions about training recorded within their recent supervision sessions.
359. In her conclusions from the December 2017 visit, MM recorded that overall, managers and staff had not received the necessary safeguarding training and that risks to children were not regularly discussed in foster carer or supervising social worker supervisions.
360. During the January 2018 visit, Mr Gupta advised the inspectors that the agency did not provide any training specifically for staff in 2017. This appeared to be inconsistent with the staff training matrix provided by FFL. Mr Gupta advised that all training provided for the staff had been the same as that provided to the foster carers. Mr Gupta said that, in future, staff would have an individual personal

development plan and would attend separate training to the foster carers, but this had not yet been implemented.

361. At the time of the December 2017 visit, there was no evidence of staff receiving training in sexualised behaviour, gang involvement, substance abuse, absconding/missing episodes or mental health.

Mr Gupta's Case

362. In his response to the ICP allegations, Mr Gupta referred to the foster carer's training calendar 2017 which, he said, demonstrated that sufficient training had been made available to foster carers by FFL. He claimed that Ms Panwar was responsible for identifying the training for the foster carers and staff. He said that training documents prior to 2017 were no longer available.

363. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"Please refer to FC training calendar 2017 (Page 505 & 506 of the evidence pack), this will suggest that enough training opportunities were made available each year to foster carers and staff. Foster carers trainings were organised based on the training needs of the foster carers. I am unfortunately unable to provide training calendars of previous years due to lack of past paperwork of the agency. None of the past paperwork and records are available anymore."

364. In his oral evidence Mr Gupta agreed that foster carers needed training but claimed that that is what FFL was doing. He said that there was a training calendar for foster carers to use. The foster carers were emailed the training programme and it was then up to the supervising social workers to book the foster carers in for training. Mr Gupta said that it was the individual supervising social workers' responsibility to ensure that the foster carers were receiving the correct training. Ms Panwar had overall responsibility for this. FFL had brought in individuals who were external to FFL to deliver the training, including individuals from local authorities, and in Mr Gupta's view the training delivered was of a good quality.

365. Mr Gupta said that he did not attend the training himself other than on an occasional basis in order to meet some of the foster carers as part of his role in business development.

Panel Decision

366. The panel was clear that Mr Gupta, as the RI, and Ms Panwar, as the RM, were both responsible for ensuring the agency's compliance with the Regulations and NMS, including in relation to training, for the reasons set out in the panel's decision entitled "Responsibilities".

367. Regulation 17(1) states that

“(1) The fostering service provider must provide foster parents with such training, advice, information and support, including support outside office hours, as appears necessary in the interests of children placed with them.”

368. The panel accepted MM’s evidence as to whether the provision of a training calendar was sufficient to discharge this duty. She stated:

“The provision of training calendars to foster carers was not sufficient to discharge the responsibilities in relation to ensuring adequate training was provided – the agency has a responsibility to ensure that carers are competent for the children. If carers are not regularly attending training, this needs to be addressed; if they’re not willing to attend training, they are not complying with NMS. That should be escalated. In practice, when reviewed or taken back to Panel, it should be considered whether they should be foster carers any longer, it raises a question around your ability to be a foster carer. The agency should have taken action to address those concerns and if not, their approval [to foster] should have been questioned.”

369. MM gave evidence, which the panel accepted, that overall the failings in staff and foster carer training were significant. Children were placed with foster carers who did not have the understanding, competence and skill to keep them safe and were being overseen by staff who did not identify this and children were left vulnerable and at risk.

370. HL provided a list of training that foster carers should have undertaken as a minimum under the NMS. She concluded that FFL had been unable to evidence any training management system or any oversight of training completed by foster carers.

371. HL said she was provided by FFL with a matrix of training which showed that a low proportion of foster carers had been trained in the most fundamental courses such as safeguarding, NVQ level 2, Paediatric first aid, safeguarding, and Caring for Asylum Seekers. HL concluded that foster carers had not completed all of the mandatory training, nor the training, support and development required for foster carers. There was no evaluation by FFL of their learning and how that impacted on their practice.

372. The panel accepted that neither the availability of NVQs nor support groups displaced the need for appropriate and essential training.

373. HL analysed a proposed training programme that was provided by the agency, to see whether the standards could be met if the proposed training was in fact provided. She concluded that the standards would not have been met if the programme had been put in place.

374. The inspectors also analysed two matrixes of foster carer training, provided first at the December visit and then at the January visit.
375. The inspectors considered the individual training records of foster carers, and documents where training needs were identified, such as annual reviews, to support their conclusions.
376. The inspectors outlined training deficits in relation to each foster carer identified at Schedule 2. This evidence was based on the range of documents provided to them, including the training lists, annual reviews, Form Fs and risk assessments. The panel accepted this evidence as accurate.
377. In relation to staff training, the inspectors were provided with a matrix which purportedly showed the training of agency staff. The same training matrix was provided by the agency to Ofsted by their solicitors as part of the Notice of Proposal representations. Mr Gupta expressed confusion regarding the provenance of this matrix in the course of the hearing. The panel concluded that the training set out in this matrix was inadequate. For example, AT had undertaken very limited training which did not include mental health, learning difficulties, emotional needs, self-harming, the need to keep up to date with fostering in its entirety, Form Fs, or reviews.
378. MM said that at the time of the December 2017 visit, there was no evidence of staff receiving training in sexualised behaviour, gang involvement, substance abuse, absconding or missing episodes or mental health. MM's evidence was that the staff should have had training in those areas given the needs of the children.
379. MM's overall conclusions as to staff training was that staff:
- "have not had up to date training in subjects such as safeguarding, child exploitation, self-harm to provide sufficient guidance and advice to keep children safe and promote their welfare. For example, two children with complex needs and who were at high risk of exploitation were placed with inexperienced carers who were supervised by supervising social workers who had not completed any training in this area. Consequently, they lacked underrating of the significance of the children missing and behaviours and did not take sufficient action to protect the child. Consequently, both children remained at significant risk throughout the placement. One of these children also had a learning disability and significant mental health concerns resulting in self harming behaviour. The supervising social worker had not completed training in any of these areas and lacked insight into the detrimental impact the foster carers approach had on this child whilst she was in the foster carers care. As a result, the supervising social worker failed to intervene resulting in a failure to meet the child's emotional and psychological needs."*

380. On the basis of the evidence provided by the inspectors, which the panel accepted, the panel was satisfied that Mr Gupta had not ensured that the agency staff and foster carers set out in Schedule 2 had had appropriate training.
381. Accordingly, the panel found Charge 6 proved in relation to each individual particularised in Schedule 2.

Head of Charge 7: Between 13 October 2010 and 13 April 2018, you did not ensure that adequate recruitment checks were made for staff, carers and/or panel members as identified at Schedule 3. In that you;

- a. Did not check the identities of individuals and/or**
- b. Did not check their professional qualifications, and/or;**
- c. Did not obtain a full employment history and/or;**
- d. Did not make up to date barring checks.**

Social Work England's Case

382. It was a key line of enquiry to check recruitment procedures at FFL due to the concerns raised about, and by, Mr Gupta and Ms Panwar. Consequently, HL requested and reviewed the lever arch files which contained recruitment information in relation to the staff. HL did sample the files, meaning that she did not review each individual file.
383. During the December 2017 visit, Mr Gupta and Ms Panwar confirmed to the inspectors that they were both responsible for recruitment. They advised that their system was to ask for a CV or application form and carry out a joint interview. Person 12 would also be present. Following this there would be a discussion and an offer of employment. They stated that they carried out Disclosure and Barring Service (DBS) checks and obtained references and cross-referenced/verified the references. They stated that they did not carry out medical checks, except for in relation to foster carers.
384. It was Social Work England's case that if Mr Gupta and Ms Panwar carried out the system of recruitment as described, this would not be sufficient, as it does not cover all areas required by Regulation 20 or Schedule 1 of the Regulations states:

"Information required in respect of persons seeking to carry on, manage or work for the purposes of a fostering service

- 1. Proof of identity including a recent photograph.**

2. Either—

- a) *where the certificate is required for a purpose related to registration under Part 2 of the 2000 Act or the position falls within regulation 5A of the Police Act 1997 (Criminal Records) Regulations 2002, an enhanced criminal record certificate issued under section 113B of the Police Act 1997 which includes suitability information relating to children (within the meaning of section 113BA(2) of that Act), or*
- b) *in any other case, a standard criminal record certificate issued under section 113A of the Police Act 1997.*

3. *Two written references, including a reference from the person's most recent employer, if any.*

4. *Where a person has previously worked in a position whose duties involved work with children or vulnerable adults verification, so far as reasonably practicable, of the reason why the employment or position ended.*

5. *Documentary evidence of any relevant qualification.*

6. *A full employment history, together with a satisfactory written explanation of any gaps in employment."*

385. HL said she checked all documents held relating to the recruitment of staff who were selected as part of the dip sample. She also requested other documents which may have helped to "*plug the gaps*".

386. HL produced a table which compared the requirements of Schedule 1 of Regulation 20 with the documents provided and set out the relevant shortfalls.

387. HL said that if the agency delegates the recruitment checks to another person, they nonetheless retain overall responsibility for their completion and how those tasks are delegated and who to.

CJ – Administrator

Social Work England's Case

388. HL reviewed the recruitment documents for CJ, the agency's administrator. HL found that there was no proof of identity on file, no evidence of reasons for leaving former employment and no follow up of previous employment with children.

389. HL suggested in her witness statement that the file for CJ did not reveal an up-to-date DBS check, but she retracted this point in evidence, accepting that there was in fact a DBS check on file.

AT – Social Worker

Social Work England's Case

390. HL reviewed the recruitment file for AT, one of the agency's social workers. HL found that there was no proof of identity, no follow up checks on previous employment with children, no qualification record on file and the dates of the employment history did not match with references.

PD – Social Worker

Social Work England's Case

391. HL reviewed the recruitment file for PD, one of the agency's social workers. HL found that there was no proof of identity, an out-of-date DBS check, unverified references, references which did not match employment history, no follow up of previous employment with children, no verified evidence of qualifications on file and gaps in employment history that had not been followed up.

CL – Panel Chair

Social Work England's Case

392. HL reviewed the recruitment file for CL, the agency's panel chair. HL found that there was no proof of identity on file, no reference from her last employer, no follow up of previous employment with children, no record of qualifications on file (for example of being a qualified social worker) and gaps in employment history that were not followed up.

KJ – Panel Vice Chair

Social Work England's Case

393. HL reviewed the recruitment file for KJ, the panel vice chair. HL found that there was no proof of identity, no evidence of qualifications on file (for example of being a registered nurse) and gaps in employment history that had not been followed up.

Unqualified Assessors, Person 13 and Person 14

Social Work England's Case

394. For Person 13 and Person 14, who were both unqualified but had completed Form Fs for the agency, there were no recruitment files held.

Foster carers

Social Work England's Case

395. HL was provided with a table by FFL's administrator which demonstrated that some foster carers did not have up to date DBS checks. In summary, the table showed that eleven of the identified foster carers did not have an up-to-date statutory check.

Mr Gupta's Case

396. In his response to the ICP allegations, Mr Gupta asserted that the administrator of the agency was responsible for completing the HR paperwork prior to staff or panel members starting their roles. Mr Gupta asserted that the agency sought independent advice from a consultant and had been informed by the consultant that FFL's HR files were complete and in line with safer recruitment training.

397. In his statement submitted for the final hearing, Mr Gupta stated as follows:

"The administrator of the agency was responsible for completing HR paperwork prior to staff member / panel member could start their role. I can only confirm that all checks and paperwork were completed by the admin. From reading evidences from pages 482 493 I understand and agree that a lot more needed to done by the agency to ensure that the staff recruitment paperwork were completed as per Ofsted's standards and Safer Recruitment Practices. The two consultants one of them had worked with Ofsted in the past - Future Fostering had brought in to look into the files had given a positive feedback to the management on the HR paperwork in the files and that the HR files were complete and are in line with safer recruitment training. Perhaps the Agency relied too much on external people on this matter. Attending Safer Recruitment training has enabled me to understand the gaps.

As the person leading the team I take full responsibility for the shortcomings. The Agency had clear expectations that as per safer recruitment guidance all checks must be completed. Bust the Agency did not develop any monitoring system to monitor whether this was happening and I take full responsibility for this failure."

398. In his oral evidence Mr Gupta said that FFL had an administrator who was responsible for the checks. The administrator came from a large care home and was responsible for recruitment paperwork.
399. Mr Gupta was of the view that the Ofsted inspectors were trying to find fault. He said that when FFL was sold off following the Ofsted inspection, FFL's staff all moved over to a new organisation who looked at their file and said they were fine.
400. In cross-examination Mr Gupta claimed that all the recruitment files had the papers required by Schedule 1. He said that he had sat down with a consultant who had looked at the checklist and had told him that there was in fact hardly anything missing. When asked the name of the consultant he said that there had been a "Rob" and a "Heather".
401. Mr Gupta also said some records, such as DBS checks for foster carers, may have not been updated by the administrator, CJ. He said that his role as RI did not involve day to day oversight of the recruitment files.

Panel Decision

402. The panel accepted HL's evidence that if the agency delegated the recruitment checks to another person, the RM and RI nonetheless retained overall responsibility for their completion and how those tasks were delegated and who to.
403. The panel accepted the evidence provided by HL that recruitment checks conducted by FFL had been inadequate.
404. The panel did not accept the evidence provided by Mr Gupta regarding the supposed conclusions reached by a paid consultant. He had provided no supporting evidence of this whatsoever. The documents referred to by HL spoke for themselves. It was not a question of interpretation as to whether the content of the recruitment files had fallen foul of Schedule 1 of the Regulations. Either the documents had been there or not. The panel accepted the evidence of HL that they had not.
405. In the agency's representations for the Notice of Proposal, the agency did not assert that the recruitment files were complete; they assured Ofsted that Mr Gupta would be undertaking a review.
406. HL gave evidence that she was provided with a document by the administrator on 6 December 2017 which showed the expiration dates of the foster carer DBS checks. She said this demonstrated that 11 of the DBS checks had expired.

407. Mr Gupta denied that this was an accurate representation on the basis that the administrator may have used out of date information. The panel accepted Social Work England's submission that this suggestion was undermined by the agency's representations for the Notice of Proposal in relation to DBS checks for foster carers which stated:

"The Agency accepts that there was an oversight with regard to DBS checks for foster carers. The Agency maintains that they are normally very good at monitoring this check to ensure all are up to date but due to the issues faced last year there was a slip in their usual standard".

The Representations attached evidence that the agency had completed the required checks after Ofsted's visit.

408. Mr Gupta said in evidence that the list provided by the administrator did not relate only to foster carers, but rather included other individuals such as family members who were not the registered foster carers. It had been accepted by Social Work England that by cross-referencing the table with the foster carer training matrix, which lists all of the foster carers, it appeared that there were only five foster carers who had out of date DBS checks. The panel therefore discounted any other individuals for the purpose of its finding.

409. On that basis the panel was satisfied that Mr Gupta did not ensure that adequate recruitment checks for staff, foster carers and panel members, namely CJ, AT, PD, CL, KJ, Person 13, Person 14 and five foster carers, in that he did not check identities, check professional qualifications, obtain an employment history or make barring checks.

410. Accordingly, the panel found Charge 7 proved in its entirety.

Submissions on misconduct and current impairment

411. Ms Sharpe submitted that the seriousness of the allegations had been detailed by both MM and HL who had concluded that there had been significant and widespread failings which resulted in multiple and repeated breaches of the Regulations, thereby posing a risk of harm to children, and in some cases, resulting in actual harm to the children. Ms Sharpe submitted that each charge was sufficiently serious to amount to misconduct.

412. Ms Sharpe submitted in the alternative that Mr Gupta's behaviour amounted to a lack of competence. She submitted that the effect, or possible effect, of Mr Gupta's acts and omissions differed in relation to each child and foster carer, as outlined by the evidence of MM and HL. She submitted that all of the acts and

omissions put service users at a risk of harm, whether that was direct, in terms of inappropriate matching or unaddressed risks, or indirect, such as in respect of inadequate recruitment checks.

413. Ms Sharpe submitted that the charges encompassed a significant number of service users, both Children and Foster Carers, and spanned a significant period of time, from at least 2013 to 2018.
414. Ms Sharpe submitted that factors which may be relevant when determining whether the facts amounted to a lack of competence included:
- a. FFL had previously been rated as good by Ofsted following two inspections whilst the Social Workers were in their respective positions;
 - b. Ms Panwar had been successfully registered by Ofsted as a Registered Manager;
 - c. The Social Workers were experienced practitioners;
 - d. The Social Workers purportedly made efforts to improve the standards at FFL between the December 2017 and January 2018 Visits but this did not lead to sufficient improvement;
 - e. The Inspectors referred to a perceived lack of knowledge, understanding and awareness from both Social Workers throughout their Visits to FFL.
415. On the issue of impairment, Ms Sharpe submitted that Mr Gupta had demonstrated very limited, if any, insight into the seriousness of the allegations or the risk of harm to children and foster carers, and little, if any, remorse or remediation.
416. Ms Sharpe submitted that a finding of current impairment should be made to protect the public, to mark the public interest and to maintain proper professional standards for social workers in England.
417. Mr Gupta said that he *“apologised for everything that went on”*. He said that he *“was captain of the ship and was part of the team that led the ship”*. He said that *“from reading the findings I humbly accept full responsibility”*. He said he realised he needed to be punished.
418. Mr Gupta said that he had intended no harm. He said that *“a lot happened that was beyond my control but I became part of the battle”*. He informed the panel that he had found it difficult to find employment as a social worker whilst subject to an interim order. He said that *“the failures”* had *“taken me to the journey of repenting”* and that *“failures do teach you the lesson”*. He assured the panel that he would continue to make improvements. He said that his *“intention was not to get involved in such an organisation failure. But perhaps circumstances were not in*

my favour. But that is not an excuse, the fact is it happened, I must learn from it. I do strive to make improvements as life takes me to better journeys”.

Advice on misconduct, lack of competence and current impairment

419. The panel accepted the advice of the legal adviser who advised the panel on the meaning of misconduct, lack of competence and impaired fitness to practise.
420. In relation to misconduct, the legal adviser referred to the case of *Roylance v General Medical Council No 2 [2001] 1 AC*, and advised the panel to ask whether, in its judgement, the charges found proved constituted a serious departure from the standards of conduct that could properly be expected of a social worker performing the role that Mr Gupta had been employed to perform at the time, namely that of RI of an independent fostering agency. In accordance with the case of *Nandi v GMC [2004] EWHC 2317*, she advised the panel to consider whether the conduct would be regarded as deplorable by fellow practitioners. She advised the panel to consider each charge separately.
421. In relation to lack of competence the legal adviser advised the panel to ask whether, in its judgment, Mr Gupta had demonstrated a standard which was unacceptably low, and which had been demonstrated by reference to a fair sample of work over a fair period of time. She advised the panel to assess Mr Gupta in accordance with the standard applicable to that of a competent social worker acting as an RI of an independent fostering agency.
422. In relation to impairment of fitness to practise, the legal adviser reminded the panel of the first three of the criteria set out in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Paula Grant [2011] EWHC 927*, namely whether the registered social worker:
- Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or
 - Has in the past and/or is liable in the future to bring the profession into disrepute; and/or
 - Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.
423. The legal adviser advised the panel, in accordance with the case of *Cohen v General Medical Council [2008] EWHC 581*, to ask whether Mr Gupta’s conduct was easily remediable, whether it had in fact been remedied and whether it was highly unlikely to be repeated. She advised the panel to examine whether or not Mr Gupta had demonstrated insight into his past behaviour.
424. In accordance with the case of *Grant [2011] EWHC 927*, the legal adviser advised the panel to ask whether a finding of impairment was required to uphold

and maintain proper professional standards and to uphold and maintain public confidence in the profession of social workers and their regulator.

425. The legal adviser advised the panel to consider the guidance provided by Social Work England on the meaning of impairment, provided in its Sanctions Guidance.

Decision on grounds and current impairment

Grounds

426. The panel concluded that that Mr Gupta had breached the following HCPC Standards of Proficiency for Social Workers in England (2012; 2017), and HCPC Standards of Conduct, Performance and Ethics (2012; 2016), which had been in place at the time:

Standards of Proficiency for Social Workers in England (2012; 2017)

Standard 1 – be able to practise safely and effectively within their scope of practice

Standard 1.3 - be able to undertake assessments of risk, need and capacity and respond appropriately

Standard 1.5 - be able to recognise signs of harm, abuse and neglect and know how to respond appropriately.

Standard 2 – be able to practise with the legal and ethical boundaries of their profession

Standard 2.2 - understand the need to promote the best interests of service users and carers at all times

Standard 2.3 - understand the need to protect, safeguard and promote the wellbeing of children, young people and vulnerable adults

Standard 2.4 - understand the need to address practices which present a risk to or from service users and carers, or others

Standard 2.5 - be able to manage competing or conflicting interests

Standard 2.6 - be able to exercise authority as a social worker within the appropriate legal and ethical frameworks

Standard 3 – be able maintain fitness to practise

Standard 3.3 - understand both the need to keep skills and knowledge up-to-date and the importance of career-long learning

Standard 4 – be able to practise as an autonomous professional, exercising their own professional judgement

Standard 4.1 - be able to assess a situation, determine its nature and severity and call upon the required knowledge and experience to deal with it

Standard 4.2 - be able to initiate resolution of issues and be able to exercise personal initiative

Standard 9 - be able to work appropriately with others

Standard 9.2 - be able to work with service users and carers to enable them to assess and make informed decisions about their needs, circumstances, risks, preferred options and resources

Standard 9.6 - be able to work in partnership with others, including those working in other agencies and roles

Standard 14 - be able to draw on appropriate knowledge and skills to inform practice

Standard 14.1 - be able to gather, analyse, critically evaluate and use information and knowledge to make recommendations or modify their practice

Standard 14.2 - be able to select and use appropriate assessment tools

Standard 14.3 - be able to prepare, implement, review, evaluate, revise and conclude plans to meet needs and circumstances in conjunction with service users and carers

Standards of Conduct, Performance and Ethics (2012)

Standard 1 – You must act in the best interests of Service Users;

Standard 5 – You must keep your professional knowledge and skills up to date

Standard 8 – You must effectively supervise tasks that you have asked other people to carry out.

427. The panel agreed with the submission put forward on behalf of Social Work England that the charges found proved encompassed a significant number of service users, both children and foster carers, and spanned a significant period of time, from 2013 to 2018.
428. The panel agreed with the conclusion reached by the Inspectors that the failings were significant and widespread within the agency and resulted in multiple and repeated breaches of the Regulations. This had posed the risk of harm to children, and in some cases, resulted in actual harm to the children.
429. In relation to Charges 1, 2 and 3, which all relate to unqualified workers carrying out social work functions in breach of the NMS, the panel agreed with the evidence of MM. MM stated that as a consequence of these failings, inappropriate people were approved as foster carers, and children were placed with carers who did not have the skill or competency to care for them or keep them safe. The panel concluded that in relation to each individual charge, Charge 1, 2 and 3, the conduct found proved fell seriously below the standards to be expected of a social worker in the position of a RI, and amounted to misconduct.
430. In relation to Charge 4, the panel agreed with MM's evidence that the completion and approval of inadequate matching checklists which did not consider the relevant risk factors was serious because vital information on children's risk taking behaviour, such as going missing, or the risks of being exploited, were missed, and were not considered when making placements. MM said, and the panel agreed, that this was a significant failing in that due to the lack of consideration around matching, children were placed with foster carers who did not have the knowledge, skills, experience, training, or understanding required to meet their needs, successfully support them and keep them safe. The panel concluded that the conduct found proved in Charge 4 fell seriously below the standards to be expected of a social worker in the position of a RI, and amounted to misconduct.
431. In relation to Charge 5, the panel agreed with MM's evidence that the failure to ensure that risk assessments were adequately completed or updated by supervising social workers was a significant failing in that children were placed with carers who did not have the knowledge or skills to safeguard them. The risk assessments did not inform carers of the risks to children or the steps they must take to safeguard them. Due to their poor training the foster carers would have been unable to identify risks or intervene in order to keep the children placed with them safe. The panel concluded that the conduct found proved in Charge 5 fell seriously below the standards to be expected of a social worker in the position of a RI, and amounted to misconduct.

432. In relation to Charge 6, the panel agreed with MM's evidence that the lack of appropriate training for agency staff and foster carers was significant and caused risks to children. It was clear that staff did not have the necessary training and knowledge to be able to identify if a child was at risk. For example Child SM, where FFL concluded that the child was not at risk of CSE as the police could not find firm evidence of this, notwithstanding that the police remained concerned due to her past and current behaviour. The staff and the foster carer with whom Child SM was placed lacked training and so they did not identify this. MM said that in respect of the seriousness and impact of foster carers not having received appropriate or sufficient training, this was significant as it meant children were placed with foster carers who did not have the understanding, competency or skill to meet their needs and keep them safe. The panel agreed with this. The panel also agreed with HL's evidence that appropriate and thorough training was important to ensure that the foster carers were able to effectively safeguard the children placed with them, particularly in circumstances where the risk of harm is very high, such as in the case of Child WK's self-harm. Child WK was placed with a foster carer without any training in self harm or sexual abuse, two key criteria for Child WK. Within six months Child WK's self-harm had escalated to such an extent that she was hospitalised for a period of days. The panel accepted HL's evidence that in the absence of appropriate training, foster carers are at risk of causing further harm to the children and the risk of placement breakdown is increased. The panel concluded that the conduct found proved in Charge 6 fell seriously below the standards to be expected of a social worker in the position of a RI, and amounted to misconduct.
433. In relation to Charge 7 the panel agreed with HL's evidence that the failure to ensure adequate recruitment checks for staff, foster carers and panel members was significant because children and carers were supported by staff who had not had the required recruitment checks to ensure that they were "*safe adults*" to work with children, which could have resulted in preventable harm to children. The panel concluded that the conduct found proved in Charge 7 fell seriously below the standards to be expected of a social worker in the position of a RI, and amounted to misconduct.
434. Accordingly the panel concluded that the behaviour found proved in each charge was serious and amounted to misconduct. The behaviour in each charge impacted on the standard of care the agency provided to vulnerable looked after children.
435. In those circumstances the Panel was not required to consider the alternative allegation of lack of competence.

Impairment

436. In light of its findings on misconduct, the Panel concluded that Mr Gupta had acted so as to put service users at unwarranted risk of harm, had brought the profession into disrepute, and had breached a fundamental tenet of the profession, in terms of the standard of care provided to the children placed by the agency, the lack of effective safeguards, risk assessments, proper analysis of the suitability of placements and use of unqualified staff to complete social work tasks, without proper supervision where required.
437. The panel concluded that the conduct found proved could not be said to have amounted to an isolated error on the part of Mr Gupta. The charges spanned years and affected a very significant number of looked after children and foster carers.
438. The panel concluded that Mr Gupta had not demonstrated any insight into his failings.
439. In his written submissions he had apologised "*on behalf of the agency*" but it was clear from the evidence that he went on to give that he did not regard himself to be to blame for any of the matters found proved. He did not accept personal responsibility for the actions of FFL, nor did he show any insight into the effects that his behaviour had, or may have had, on service users.
440. In his submissions before the panel at this, the impairment stage, Mr Gupta had apologised for the failings of the agency, but he did not go so far as to retract his earlier evidence when he had said that any failings of FFL had resulted from the acts or omissions of others, such as Ms Panwar and the individual supervising social workers. His recent submissions did not demonstrate a genuine acceptance of how, in his role as RI for FFL, he took personal responsibility for the failures and in particular for failing service users.
441. Mr Gupta had provided no evidence of any remediation. The panel appreciated that he had been subject to an interim suspension order since 2 November 2018, and this will clearly have impacted his ability to remediate whilst in practice. However he had provided no evidence of CPD, training, reflection or other remediation that had been available to him regardless of his suspension from practice as a social worker.
442. In light of the lack of genuine insight or remediation, the panel concluded that there is a high risk that Mr Gupta will repeat his conduct if permitted to practice unrestricted, thereby putting service users at risk of harm.
443. Accordingly the panel concluded that Mr Gupta's fitness to practise is currently impaired on public protection grounds
444. The panel also concluded that the matters found proved are extremely serious, for the reasons set out in this determination, and that a finding of

impairment is clearly required to protect confidence in social workers and their regulator, and to maintain professional standards for social workers.

445. Accordingly the panel that Mr Gupta's fitness to practise is also currently impaired on public interest grounds.

Submissions and advice on sanction:

446. Ms Sharpe placed before the panel a previous regulatory finding in Mr Gupta's name. This comprised a caution order for one year imposed by the HCPC on 5 June 2013. The caution was imposed in relation to three charges. The first was that between February 2010 and October 2011 Mr Gupta had had a conflict of interest with his employer, the London Borough of Barking and Dagenham, in that whilst working as supervising social worker for them he had been simultaneously listed as a company director for FFL. The second and third were that on or before 12 October 2011 he fraudulently and dishonestly used his wife's name to set up FFL and other companies without her knowledge.
447. Ms Sharpe put forward a number of suggested aggravating and mitigating features of the case, and took the panel through the factors set out in the Sanctions Guidance.
448. Ms Sharpe submitted that a Removal Order was the appropriate sanction in the circumstances of the case.
449. At 23.29pm on 4 August 2022, Mr Gupta emailed through five certificates, dated between January and April 2020, confirming that he had completed courses in: Child Sexual Exploitation; Safeguarding against Radicalisation; Safeguarding Children; Safer Recruitment; and Self Harm. He also provided an invoice for a Level 5 Diploma in Healthcare Social Care Management although Mr Gupta acknowledged that he had not completed this.
450. The legal adviser advised the panel to take account of the Sanctions Guidance published by Social Work England. She advised the panel to consider any aggravating and mitigating factors. She advised the panel to consider each available sanction in ascending order of severity. She advised the panel to apply the principle of proportionality by weighing the social worker's interests with the public interest. She advised the panel that the purpose of sanction is not to punish, but is to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and its regulator, and upholding proper standards of conduct and behaviour.

Decision on sanction:

451. The panel considered the five certificates provided by Mr Gupta at this, the sanction stage. The panel accepted that the certificates indicated some degree of continued engagement with, and interest in, social work. However Mr Gupta had not provided any evidence of what he may have gleaned from his learning or how this may have impacted on his ability to avoid any future repetition of his past failings whilst working as a social worker. The material did not alter the panel's view on impairment, and did not provide the panel with adequate assurance at the sanction stage that Mr Gupta would not repeat his conduct or pose a risk to the public if permitted to work as a social worker.
452. The panel considered there to be no mitigating factors in Mr Gupta's favour.
453. The panel considered the following to be aggravating features:
- a. The serious risk of harm to vulnerable service users, particularly in relation to unaddressed safeguarding concerns, unvetted staff, unqualified workers, and untrained foster carers;
 - b. Some evidence of actual harm to children, notably, Child WK;
 - c. The significant period of time over which the misconduct had taken place;
 - d. The very significant number of service users who had the potential to be affected by the misconduct;
 - e. Mr Gupta's lack of insight and adequate remediation;
 - f. Mr Gupta's previous regulatory finding, which overlapped in time.

No Action; Advice; Warning

454. The panel had concluded that the misconduct in this case was extremely serious, for the reasons set out earlier in this decision. The panel concluded that there were no exceptional reasons to merit taking no action, or to issue an advice or a warning.

Conditions of Practice Order

455. The panel concluded that a conditions of practice order would be insufficient to protect the public and wider public in light of the seriousness of the misconduct that had been found, and the lack of insight and remediation. Any set of conditions would be tantamount to suspension given the very wide range of failings in this case.

Suspension Order

456. The panel accepted that a suspension order would protect the public and the wider public interest; however this would only be in the short term. The maximum period of suspension permitted was for three years. The panel decided that this was insufficient in light of the seriousness of the misconduct, and the lack of insight and remediation in this instance. For those reasons the panel concluded that a period of suspension was inappropriate.

Removal Order

457. The panel understood that a Removal Order is the sanction of last resort where there is no other means of protecting the public and the wider public interest. However it was the judgement of the panel that any lesser sanction would be insufficient in the circumstances of this case.
458. In his role as RI of FFL, Mr Gupta had allowed unqualified members of staff to complete work that affected vulnerable looked after children; he had completed inadequate matching checklists that did not consider the relevant risk factors in relation to vulnerable looked after children; he had failed to ensure that risk assessments in relation to vulnerable looked after children had been adequately completed and updated; he had failed to ensure that agency staff and foster carers dealing with vulnerable looked after children had appropriate training; and he had failed to ensure that adequate recruitment checks had been carried out for staff, foster carers and panel members dealing with vulnerable looked after children. As a consequence a great many vulnerable looked after children had been put at risk of harm, and some had suffered actual harm.
459. In light of the seriousness of the past misconduct, the aggravating features of the case and the lack of evidence of remediation and insight, as set out in the body of this decision, the panel concluded that it had no option but to impose a Removal Order.
460. Accordingly the sanction imposed by the panel was a Removal Order.

Interim order

461. Ms Sharpe applied for an Interim Suspension Order to cover the appeal period before the Removal Order became operative.
462. The panel concluded that an Interim Order is necessary for the protection of the public, given the very real risk that Mr Gupta will repeat his misconduct if permitted to practise unrestricted. The panel also concluded that an Interim Order is otherwise in the public interest in light of the seriousness of the misconduct, as set out in this decision.

463. The panel concluded that an Interim Conditions of Practise Order was insufficient for the same reasons as the decision made not to impose a substantive Conditions of Practice Order.
464. Accordingly, the panel imposed an Interim Suspension Order.
465. The panel imposed an Interim Suspension Order for a period of 18 months to cover the appeal period. When the appeal period expires the Interim Order will come to an end if there has been no application to appeal, at which point the Removal Order will come into force.

Right of Appeal

466. 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.
467. Under paragraph 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
468. 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.
469. 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

470. 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.

471. 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.