



Social Worker: John D Hignett

Registration Number: SW27367

Fitness to Practise:

Final Hearing

Date(s) of hearing: 1-4 August 2022

Hearing Venue: Remote hearing

Hearing outcome: A Removal order

Interim order: Interim Suspension Order for 18 months (expiring 4 February 2024)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Hignett did not attend and was not represented.
3. Social Work England was represented by Ms Amy Woolfson, counsel, instructed by Capsticks LLP.

Adjudicators	Role
Clive Powell	Chair
Jacqueline Telfer	Social Worker Adjudicator
Lorna Taylor	Lay Adjudicator

Natasha Quainoo	Hearings Officer
Robyn Watts	Hearing Support Officer
Andrew Lewis	Legal Adviser

Service of Notice:

4. As indicated above, Mr Hignett did not attend the hearing and was not represented. The panel of adjudicators (the panel) was informed by Ms Woolfson that notice of this hearing was sent to Mr Hignett, on 4 July 2022, in the form prescribed by Rule 15 of the Social Work England Fitness to Practise Rule (the Rules) by first class post to his address on Social Work England's Register (the Register) and by electronic mail to the electronic mail address held by Social Work England. Ms Woolfson submitted that the notice of this hearing had been duly served.
5. The panel had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 7 July 2022 and addressed to Mr Hignett at his address as it appears on the Social Work England Register and to the electronic mail address held by Social Work England.
 - An extract from the Social Work England Register detailing Mr Hignett's registered address and email address.

- A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 4 July 2022 the writer sent the notice of hearing by electronic mail to Mr Hignett at the email addresses referred to above.
- A copy of the Royal Mail Track and Trace Document indicating “signed for” delivery to Mr Hignett registered address at 1.00pm on 9 July 2022.

6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rules 15, 43, 44, and 45 and all of the information before it in relation to the service of notice, The panel was satisfied that notice of this hearing had been served on Mr Hignett in accordance with the Rules.

Proceeding in the absence of the social worker

8. The panel then heard an application by Ms Woolfson, on behalf of Social Work England, that the panel should proceed in Mr Hignett’s absence.
9. Ms Woolfson drew the panel’s attention to the relevant authorities and guidance set out below. She reminded the panel that the discretion to proceed in the absence of Mr Hignett must be exercised with care and caution and took the panel to each of the considerations set out in the guidance and the authorities.
10. She submitted that notice of this hearing had been duly served and no application for an adjournment had been made by Mr Hignett. Ms Woolfson drew the Panel’s attention to the Hearing Participation form signed and dated by Mr Hignett on 12 July 2022 on which Mr Hignett had ticked the box marked, *“will not be attending the electronic hearing and I have not prepared written submissions to be considered in advance of the hearing. I also understand that in my absence, the hearing may proceed in my absence.”*
11. Ms Woolfson submitted that Mr Hignett had voluntarily absented himself from the hearing and the panel should proceed with the hearing in his absence.
12. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application to proceed in absence and has followed that advice in the decision set out below.
13. The panel had regard to Rule 43 which provides *“Where the registered social worker does not attend a hearing and is not represented, the regulator or adjudicators, as the case may be, may proceed to determine the matter, including in circumstances where the registered social worker has previously indicated they wished to attend, if they are satisfied that the registered social worker has been served or all reasonable efforts have been made to serve the registered social worker with notice of the hearing in accordance with these Rules.”*

14. The panel also had regard to the Social Work England guidance, “Service of Notices and Proceeding in the Absence of the Social Worker, last updated 5 December 2019”, the decision of the *House of Lords in R v Jones [2002] UKHL 5* and the further guidance given to panels by the Court of Appeal in *GMC v Adeogba [2016] EWCA Civ 162*. These include the following:

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

15. The panel had regard to the direction given by the Court of Appeal in *Adeogba* (above) *“Where there is good reason not to proceed, the case should be adjourned; where there is not, however, it is only right that it should proceed.”*

16. The panel read the correspondence between Social Work England and Mr Hignett, including the Hearing Participation Form referred to above, another case management form on which Mr Hignett had indicated he did not intend to attend the hearing, and an email dated 5 December 2021 in which Mr Hignett had stated *“have advised Social Work England that I am no longer contesting being removed from the Register but wish the matter concluded promptly.”*

17. The panel acknowledged that Mr Hignett is likely to suffer a disadvantage by not attending the hearing and being able to put his own case before the panel. Nevertheless, the panel found that this situation has arisen as a result of Mr Hignett’s

own decision not to attend, and therefore any disadvantage Mr Hignett might suffer had to be weighed against the public interest in disposing of this case within a reasonable time. In this regard the panel noted that Social Work England had arranged for 2 witnesses to attend to give evidence. Any further delay would not only inconvenience the witnesses but was also likely to have a detrimental effect upon their memory of events that were already a considerable time ago.

18. Having regard to what Mr Hignett had written to the representatives of Social Work England, and written in the Hearing Participation Form, the panel was satisfied that there were no grounds to believe that an adjournment would secure his attendance at a hearing on a future date.

19. Having regard to all these reasons, the panel was satisfied that Mr Hignett had waived his right to attend the hearing by voluntarily absenting himself and there was a clear public interest in resolving this matter during the time that had been made available for it. Accordingly, the panel decided to proceed with this hearing in Mr Hignett's absence.

Allegation(s)

20. The Allegations arising from the regulatory concerns referred by the Case Examiners on 4 February 2020 are set out in the Social Work England Statement of Case as follows:

1. Whilst registered as a Social Worker (with the Health and Care Professions Council), *in or around September 2019 you did not maintain a professional relationship with Service User D in that:*

i. *You sent Service User D messages on social media as detailed in Schedule A.*

2. *You were aware and/or ought to have been aware that Service User D was highly vulnerable:*

i. *Due to her history of mental health difficulties; and/ or*

ii. *Due to her history of past abuse.*

3. *Your conduct at allegation 1 was sexually motivated.*

4. *On 5 October 2020 and whilst registered as a social worker you were included by the Disclosure and Barring Service in the adults' barred list.*

5. *The matters outlined in allegations 1, 2 and/ or 3 amount to the statutory ground of misconduct.*

6. The matters outlined in allegation 4 amount to the statutory ground of being included by the Disclosure and Barring Service in a barred list.

By reason of your misconduct and/ or your inclusion by the Disclosure and Barring Service in a barred list, your fitness to practise is impaired.

Preliminary matters

21. Ms Woolfson drew the panel's attention to the drafting of the allegations and in particular allegation 2. She pointed out that, although allegation 2 had been set out in the statement of case served on Mr Hignett, in accordance with the rules, it had not been highlighted at the case management hearing on 28 June 2022, as one of the allegations that Mr Hignett would face.
22. She invited the panel to find that there was no unfairness to Mr Hignett arising from that because this allegation had been properly included in the statement of case served on Mr Hignett in accordance with the rules. Further it had been included in an earlier draft of the allegations, served on Mr Hignett in May 2022. In his written response to the allegations, Mr Hignett had written "yes" next to, "2. *You knew that Service User D was highly vulnerable due to her mental health difficulties and/or past abuse.*"
23. The panel received the advice of the legal adviser, which it followed in its decision-making.
24. The panel bore in mind the need to be fair to Mr Hignett. Nevertheless, it was satisfied that there was no unfairness to Mr Hignett in the panel considering this allegation because, not only had it been served on him in the statement of case, in accordance with the rules, but it had also been notified to him in May 2022, at which time he had responded in writing, admitting the allegation. The panel was also satisfied that there was a clear public interest in this serious allegation being decided.

Background

25. On 2 October 2019 the Health Care Professions Council (HCPC) received a referral regarding Mr Hignett's conduct. The referral came from Cygnet Hospital in Bradford and concerned the Social Worker's alleged conduct towards Service User D, a highly vulnerable female service user.
26. Service User D was a patient at the Cygnet Hospital, where she was detained under S3 of the Mental Health Act, between 2011 and 2016. During that period, Mr Hignett was a hospital social worker directly involved in Service User D's care.

27. In September 2019, Service User D disclosed to a support worker, **(Private)**, that she had been in contact with Mr Hignett via Facebook Messenger and, in or around September 2019, he had sent her a number of highly sexualised messages.
28. During the investigation into the Social Worker's conduct towards Service User D, Social Work England became aware that on 5 October 2020 the Disclosure and Barring Service ("the DBS") placed the Social Worker on the Adults' Barred List as a result of concerns arising from:
- a. Sexually motivated conduct towards a service user in 2017;
 - b. Further sexually motivated conduct towards Service User D in 2019.

Summary of Evidence

29. The panel read documentary evidence including but not limited to
- a. Screen shots of Facebook messages sent by Mr Hignett to Service User D;
 - b. Various notes recording the reporting of the Facebook messages by **(Private)**
 - c. A record of Mr Hignett's interview by Doncaster police dated 05.02.2018;
 - d. Disclosure and Barring Service Final Decision Letter dated 5.10.2020;
 - e. Email correspondence and submissions from Mr Hignett on various dates;
 - f. Mr Hignett's response to the allegation dated 05.12.2021;
 - g. Hearing Participation Form dated 12.07.2022.
30. The panel heard evidence from the following witnesses:
- a. **(Private)** (Health Care Support Worker/Nursing Assistant at Cygnet Bierley Hospital);
 - b. Phil Howell (Social Worker for Service User D).

The panel also had sight of a statement from Gwyn Jones (Investigator at Social Work England).

Witness evidence

31. The Panel received written and oral evidence from **(Private)**, who was a Health Care Support Worker/Nursing Assistant at the Mental Health Hospital at Cygnet Bierley where she had worked for 16 years. The panel found her to be a reliable source of information, whose evidence was consistent with the documents she produced.

32. The panel also noted that she was fair and measured in her description of Mr Hignett, who, she said, was always polite and appropriate to her.
33. She had, she told the panel, helped look after Service User D in the Cygnet Hospital, between 2011 and 2015. She knew Service User D well and was aware that Service User D had been "*sexually abused regularly in the past*". She told the tribunal that Service User D was not open about her abuse and discussed the details openly only with the ward doctor and Mr Hignett himself. She described Service User D as "very guarded" with regard to this matter.
34. The Panel entirely accepted her unchallenged evidence of how she became aware of the Facebook messages which form the basis of allegation 1 and are set out in Schedule A to the allegations and annexed to this determination, marked "Schedule A".
35. She told the panel that she was away from work between April 2015 and 2016 and that Service User D had been discharged when she returned to work. She had next heard from service user D when she received a "friend request" on her Facebook page. After initially reluctance, she accepted and exchanged occasional messages with Service User D until 25 September 2019, when she became aware from Service User D that she was receiving messages from Mr Hignett.
36. She described to the panel how these messages were forwarded to her by Service User D and she subsequently "screenshot" them so that they could be shared with her managers. The panel saw these messages and noted that they were in the familiar form of Facebook messages with the name "John David Hignett" written across the top, where the sender's name is to be found on Facebook messages.
37. She told the panel that she had been very concerned about these messages and had drawn them to the attention of the clinical manager at the Cygnet Hospital later that evening at 22.00. He subsequently alerted the head of social work and the witness met with them first thing the following morning. She described how she had shared and screenshot the messages to assist her managers.
38. The Panel received written and oral evidence from Mr Philip Howell, an Assistant Team Manager for Affective Disorders Social Work Team, at Middlesbrough Council, who has been Service User D's allocated social worker since January 2015.
39. The panel was greatly assisted by his evidence, which was careful and measured, and supported by the contemporaneous records.
40. He told the panel that Service User D, who is now **(Private)**, had been a service user since she was **(Private)** years of age. He described her as being "in and out of hospital". He told the Panel that she was detained in hospital under the provisions of section 3 of the Mental Health Act in her teens and transferred, when she was 18, to adult

hospitals, first at **(Private)** and then the Cygnet Hospital, Bierley, **(Private)** in 2011. He told the Panel that Service User D remained in hospital, until 7 March 2016, when she was discharged to supported accommodation.

41. He told the Panel that Service User D has a diagnosis of emotionally unstable personality disorder with post-traumatic stress disorder (“PTSD”), anxiety and an eating disorder. He told the panel that Service User D’s mental state fluctuates considerably, and she made a suicide attempt by jumping from a railway bridge on 12 December 2019 **(Private)**
42. The panel saw that one of Mr Howells Records described Service User D as “extremely vulnerable with a significant history of sexual and physical abuse”. The panel is satisfied that this is borne out by the length of time service user D has spent detained in hospital and her history of serious self-harm.
43. He told the tribunal that Mr Hignett had been Service User D’s Social Worker/therapist at Cygnet Hospital, Bierley, whilst Service User D was an in-patient. Mr Hignett had played no part in Service User D’s care since her discharge from the Cygnet Hospital.
44. He also told the panel of conversations he had had with Service User D, and recorded in his notes at the time. She had declined to give evidence at any hearings but confirmed that she had received sexually explicit Facebook messages from Mr Hignett and also a telephone message telling her he was not angry with her when she blocked him on Facebook.

Submissions

45. Ms Woolfson drew the panel’s attention to the evidence and reminded the panel of the burden and standard of proof. She reminded the panel that Social Work England did not invite the panel to draw an adverse inference from Mr Hignett’s decision not to attend and give evidence, because he had not been warned that such an inference could be drawn if he did not attend the hearing. She submitted that the evidence adduced by Social Work England was persuasive and supported by the available documents and sufficient for the panel to find all the allegations proved.
46. The panel heard the advice of the legal adviser, which it accepted and followed in this decision.

The panel’s approach

47. The panel bore in mind that, at this stage, the burden of proving each of the allegations rests upon Social Work England and Mr Hignett does not have to prove anything. It reminded itself that the standard of proof is the civil standard, that is to say the balance of probabilities.

48. The panel accepted the advice of the legal adviser that it must decide what weight to attach to the evidence it has heard and that when assessing the reliability of a witness who has attended to give oral evidence it should test that witnesses evidence by reference to all the surrounding evidence and documentation and not rely on the demeanour of the witnesses.

The panel's finding and reasons on facts

49. The panel then considered each of the allegations in turn:

Allegation 1

1. Whilst registered as a social worker, in or around September 2019 you did not maintain a professional relationship with Service User D in that:

i. You sent Service User D messages on social media as detailed in Schedule A.

50. In light of the evidence set out above, the Panel found that Mr Hignett was the hospital social worker with responsibility for service user D for a considerable period before her discharge from the Cygnet Hospital in 2016. During that time, he had a close professional relationship with her within which he was one of the few people to whom Service User D confided the details of her previous sexual abuse openly.
51. The panel is satisfied that when Mr Hignett contacted service user D by Facebook message and wrote to her about intimate matters including previous abuse, he was drawing upon and abusing the information he had gained during his professional relationship with her in hospital. The panel is satisfied that if Mr Hignett had not had a professional relationship with Service User D in hospital, he would have not had her contact details, nor would he have known about the sexual abuse she had experienced in the past.
52. Having examined the messages set out in schedule A, heard the evidence of **(Private)**, and read the "Submission by David John Hignett" dated 7 July 2021, that "I wrote some reprehensible things on Messenger." The panel found that Mr Hignett sent the messages set out in Schedule A to Service User D.
53. Having regard to the content of those messages the panel found that, when he wrote those messages, Mr Hignett was not maintaining a professional relationship but pursuing a personal relationship.
54. Accordingly, the panel found allegation 1 proved.

Allegation 2

2. You were aware and/or ought to have been aware that Service User D was highly vulnerable:

- i. Due to her history of mental health difficulties; and/ or***
- ii. Due to her history of past abuse.***

55. For the reasons set out above, the panel accepted the evidence of **(Private)** and Mr Howell that Service User D was extremely vulnerable because of her long history of severe mental illness, past abuse and the self-harm to which the Panel is satisfied her illness and abuse have led.

56. The panel was satisfied that Mr Hignett knew of this vulnerability because it accepted the evidence that he was one of the people to whom Service User D confided her past abuse. The panel was satisfied that it was far more likely than not that, as the hospital social worker responsible for Service User D, Mr Hignett knew her past psychiatric history and the vulnerability which that revealed.

57. The panel found this view is supported by the content of the messages, within which he refers to past abuse. The panel also noted the case management form dated 3 May 2022, in which Mr Hignett, wrote “yes” on the form headed “Response to Allegations” next to “You knew that Service User D was highly vulnerable due to her mental health difficulties and/or past abuse.”

58. Accordingly, the panel found Allegation 2, proved.

Allegation 3

Your conduct at Allegation 1 was sexually motivated.

59. The panel considered the content of the Facebook messages and concluded that, there was no other conceivable explanation, apart from the messages being sexually motivated. The panel concluded that the graphic and explicit sexual nature of the messages indicate that they were written for sexual gratification. The panel also noted the messages in which Mr Hignett asked if Service User D was thinking of him in a sexual context. In those circumstances, the panel also found that the messages were written with a view to developing a sexual relationship in the future.

60. The panel also had regard to the following written documents sent to Social Work England by Mr Hignett. The panel saw a Response to Allegation Form dated 3.5.22, in which Mr Hignett had written “yes in part” next to the allegation, “*Your conduct at Regulatory Concern 1 was sexually motivated.*”. In a subsequent email dated 17 May 2022, he wrote, “*I accept there must have been a sexual element to my behaviour, even though I was unaware of this at the time.*”

61. Accordingly, the panel found allegation 3 approved.

Allegation 4

On 5 October 2020 and whilst registered as a social worker you were included by the Disclosure and Barring Service in the adults' barred list.

62. The panel had regard to the unchallenged written evidence of Mr Jones who produced a letter dated 16 November 2020 from the disclosure and barring service. The panel read that letter and saw that it enclosed a "final decision letter" dated 5 October 2020, informing Mr Hignett that he was included on the Adults Barred List. The panel read that letter.
63. The panel also had regard to the "Written submission" of Mr Hignett dated 27 November 2020, in which he wrote "as noted previously, having been barred from practice by the DBS, I no longer wish to contest being removed from the social work register."
64. Accordingly, the panel found allegation 4 proved.
65. The panel then considered what it could establish about the factual background to that barring decision referred to in allegation 4.
66. The panel noted that the decision was based in part on the matters found proved in relation to allegations 1 to 3 and in part because of conduct involving a second service user between June and November 2017. It is recorded that, during visits to the service users home, Mr Hignett held that service user's hand, hugged her, told her that her breasts were beautiful, touched her stomach, pulled her pyjama bottoms out and touched a scar on her lower abdomen and undid his trousers to show his appendix scar. It is also recorded that, after being interviewed by the police in 2018 and suspended from practice by the HCPC he continued to send sexually explicit text messages to Service User D.
67. The panel also read a record of Mr Hignett's interview by Doncaster Police on 5 February 2018 he was interviewed under caution with a solicitor present. He acknowledged that the service user was extremely vulnerable and said that, during a visit to her home, "she'd often show me parts of the body like where she was bruised or cut herself I don't mean intimate parts of herself".
68. He denied pulling away the service user's pyjamas to look at her scar but said that she had shown the scar to him and he had showed her his appendix scar. He agreed that he had touched the services user's abdominal scar because she had asked him to. He agreed that he had hugged her on the sofa.

Finding and reasons on grounds and impairment

68. Having found proved the facts set out above, the panel considered whether those facts amounted to misconduct and, if so, whether Mr Hignett's fitness to practise is impaired by reason of misconduct and/or his inclusion on the Disclosure and Barring Service, barred list.

Submissions

69. Ms Woolfson submitted that the matters proved at paragraphs 1, 2 and 3 amounted to misconduct that is serious. She drew the panel's attention to the authorities and submitted that Mr Hignett's conduct was "deplorable".
70. Ms Woolfson drew the panel's attention to the HCPC Standards of Conduct, Performance and Ethics (2019), to which Mr Hignett was subject in 2019. She submitted that his conduct was a breach of the following provisions:
- a. Standard 1.7 - You must keep your relationships with service users and carers professional.
 - b. Standard 2.7 - You must use all forms of communication appropriately and responsibly, including social media and networking websites.
 - c. Standard 9.1 - You must make sure that your conduct justifies the public's trust and confidence in you and your profession.
71. She submitted that Mr Hignett was also in breach of the following provisions of the HCPC Standards of Proficiency for Social Workers (2017):
- a. Standard 2 - be able to practise within the legal and ethical boundaries of their profession;
 - b. Standard 3.4 - be able to establish and maintain personal and professional boundaries;
 - c. Standard 3.5 - be able to manage the physical and emotional impact of their practice;
 - d. Standard 8 – be able to communicate effectively;
 - e. Standard 9 – be able to work appropriately with others;
 - f. Standard 15 - understand the need to establish and maintain a safe practice environment.

72. Turning to the question of impairment, Ms Woolfson submitted that Mr Hignett's fitness to practice was impaired by reason of his misconduct and his inclusion on the barred list. She reminded the panel of the matters set out in the Disclosure and Barring Service Final decision letter and in Mr Hignett's interview with the police.
73. Ms Woolfson reminded the panel of the test of impairment set out in **CHRE v NMC and P Grant [2011] EWHC 927 (Admin)** and submitted that Mr Hignett's fitness to practise is currently impaired both because there is a real risk of repetition and in the wider public interest, in particular in order to maintain public confidence in the social work profession.
74. The panel heard the advice of the legal adviser which it accepted and has followed in the decision set out below.

The panels approach

75. The panel bore in mind that, before it can consider the issue of impairment, it must first be satisfied that the facts found proved in allegations 1-3 amount to "misconduct that is serious."
76. The Panel had regard to **Roylance v General Medical Council (No.2) [2000] 1 AC 311** in which it was established that: "Misconduct" is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances.
77. The panel noted that a number of cases had sought to guide panels by reference to the following tests: "reprehensible, morally culpable or disgraceful, completely unacceptable".
78. It also had regard to the decision of the High Court in Solicitors Regulation Authority v. Day and others [2018] EWHC 2726 (Admin) which gave the following guidance to panels: "We do not, we emphasise, say that there is a set standard of seriousness or culpability for the purposes of assessing breaches of the core principles in tribunal proceedings. It is a question of fact and degree in each case. Whether the default in question is **sufficiently serious and culpable** thus will depend on the particular core principle in issue and on the evaluation of the circumstances of the particular case as applied to that principle."
79. The panel accepted the advice that, although guidance has been provided by the courts, it is a matter for the judgement of the Panel, having regard to all the circumstances of the case whether the facts found proved amount to serious misconduct.

80. Turning to the question of whether Mr Hignett's fitness to practise is impaired, the panel bore in mind that a finding of impairment is separate from the finding of misconduct and that a finding of misconduct does not automatically mean that a practitioner's fitness to practice is impaired.
81. The panel reminded itself that over two years have elapsed since Mr Hignett's misconduct, and it is concerned with his current fitness to practise.
82. The panel applied the approach endorsed by the **High Court in *CHRE v NMC and P Grant* [2011] EWHC 927 (Admin)**: *"Do our findings of fact in respect of the (registrant's) misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:*
- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
 - b) has in the past brought and/or is liable in the future to bring theprofession into disrepute; and/or*
 - c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
 - d) has in the past acted dishonestly and/or is liable to act dishonestly in the future."*
83. The panel considered first whether there remained a risk of repetition of Mr Hignett's misconduct. On this issue, the Panel noted in particular the observations of Silber J in **Cohen v GMC [2008] EWHC 581 (Admin)**:
- "There must always be situations in which a Panel can properly conclude that the act of misconduct was an isolated error on the part of a medical practitioner and that the chance of it being repeated in the future is so remote that his or her fitness to practice has not been impaired. Indeed, the Rules have been drafted on the basis that once the Panel has found misconduct, it has to consider as a separate and discreet exercise whether the practitioner's fitness to practice has been impaired."*
84. The panel also had regard to the passage from **Cohen v GMC** (above) and cited by Cox J in the Grant case, which reminds panels that there may need to be a finding of impairment in the public interest, even if the misconduct can be characterised as an isolated incident:
- "Any approach to the issue of whether a doctor's fitness to practise should be regarded as 'impaired' must take account of 'the need to protect the individual patient, and the collective need to maintain confidence [in the] profession as*

well as declaring and upholding proper standards of conduct and behaviour of the public in their doctors and that public interest includes amongst other things the protection of patients, maintenance of public confidence in the (profession)''(sic).

85. The panel also had regard to the direction given to panels by the High Court that they must have regard to all three aspects of the overarching objective, to protect the public, when reaching a decision. Most recently in **GMC v Chaudhary** [2017] EWHC 2561 (Admin)- that remediation is not the end of the matter - that throughout its deliberations, the tribunal must (and will) have regard to all 3 aspects of the overarching objective.
86. The panel had regard to the following passage in the judgment, to which the Legal Adviser drew the Panel's attention: "53. The whole of the public interest in this regulatory context is vital. I am not to be understood as saying that elements two and three are more important than the first element (which is public safety) and the position of the doctor, but everything must properly be placed in the balance." (Justice Jay)
87. It reminded itself that the overarching objective involves acting
 - a) to protect, promote and maintain the health, safety and wellbeing of the public
 - b) to maintain public confidence in the profession
 - c) to promote and maintain proper professional standards and conduct for members of the profession."

The panel's decision on misconduct and impairment

88. The panel reminded itself that it had found that Mr Hignett had sent sexually explicit and sexually motivated messages to a service user whose vulnerability he had learned of during a professional relationship with her in hospital.
89. The panel accepted that not every contact between a social worker and a former service user will amount to misconduct. In this case for example, there is no suggestion of misconduct because of the contact between Service User D and **(Private)**. Nevertheless, in this case, the panel is satisfied that by sending the messages in Schedule A, Mr Hignett was abusing his position as a social worker and using the knowledge he had gained in that role, to take advantage of a vulnerable service user for his own sexual gratification, albeit after he had ceased to be responsible for her care.
90. The panel found that this was conduct which any right-thinking member of the public or the profession would find shocking and disgraceful.

91. The panel found that Mr Hignett's conduct engaged, paragraph 9.1 of the HCPC "Standards of conduct, performance and ethics", which provides that "You must make sure that your conduct justifies the public's trust in you and your profession". The panel found that Mr Hignett's conduct did not justify public trust, but betrayed it.
92. The panel also found that Mr Hignett's conduct engaged, in particular, standards, 2, 3.4 and 3.5 of the HCPC "Standards of proficiency for Social workers in England". The panel found that his conduct demonstrated a persistent failure to practise within legal and ethical boundaries, maintain personal and professional boundaries or manage the physical and emotional impact of his practice.
93. Accordingly, the panel found the matters proved at allegations 1-3 all amount to misconduct that is serious. The finding of misconduct is addition to the panel's findings in relation to the Disclosure and Barring Service decision.
94. Turning to the question of whether Mr Hignett's fitness to practise is currently impaired, the Panel bore in mind that a finding of impairment is separate from the finding of misconduct and that a finding of misconduct does not automatically mean that the practitioner's fitness to practice is impaired.
95. The panel asked itself whether the four tests set out in the case of CHRE v NMC and P Grant, referred to above, were satisfied in this case.
96. The panel reminded itself of the findings it had made in respect of the barring order and looked at Mr Hignett's conduct in totality over the period covered by the allegations that it has found proved.
97. The panel found that by crossing professional boundaries with particularly vulnerable service users, he had abused his position as a social worker to exploit both a current and past service user for his sexual gratification. The panel found this amounted to a pattern of behaviour over a considerable period of time which has put vulnerable service users at significant risk of harm.
98. The panel found that this conduct has brought the social work profession into disrepute.
99. The panel also found that it was a fundamental tenant of the social work profession that social workers must protect those who are vulnerable. The panel found that Mr Hignett had breached that fundamental tenet by exploiting vulnerable service users.
100. The panel then asked itself whether Mr Hignett was liable to do any of these things in the future. The panel asked itself whether there was any evidence of either insight or remediation which would indicate that there is no longer a risk of repetition. The panel found that there was no such evidence before it. On the contrary there was evidence of a pattern of exploitative behaviour persisting despite warnings from the police and intervention by regulatory bodies. For these reasons the panel found that the risk of

repetition of Mr Hignett's misconduct was high. Accordingly, the panel found that a finding of impairment was necessary in order to protect members of the public from the risk of repetition.

101. The panel reminded itself that the overarching objective included not only the protection of members of the public from the risk of repetition but also the need to promote and maintain public confidence in the profession and uphold standards of conduct. The panel found that a finding of impairment is necessary to demonstrate that Mr Hignett's conduct is unacceptable in social work.
102. For those reasons, the panel found that Mr Hignett's fitness to practise is impaired under all three limbs of the over-arching objective of Social Work England

Decision on sanction.

103. Having found Mr Hignett's fitness to practice impaired, for the reasons set out above, the panel considered what, if any, sanction it should impose upon him.
104. The panel heard submissions from Ms Woolfson. She reminded the panel that the purpose of a sanction is not to punish a social worker but to protect the public, including the wider public interest in maintaining confidence in the profession and upholding standards of conduct for the profession.
105. Ms Woolfson referred the panel to the Sanctions guidance and reminded the panel of its findings that Mr Hignett had undermined public trust in the profession of social work and preyed upon vulnerable service users and/or former service users. She also reminded the panel of its finding that Mr Hignett had not demonstrated any insight. She submitted that Mr Hignett's misconduct was likely to undermine seriously public confidence in the profession of social work and reminded the panel of the decision in **Bolton v Law Society** [1994] 1 WLR 512 that "the reputation of the profession is more important than the fortunes of any individual member".
106. Ms Woolfson submitted that, in all the circumstances, the appropriate sanction was a removal order.
107. The panel received and accepted the advice of the legal adviser, which it has followed in the decision set out below.

The panel's approach

108. The panel reminded itself that the purpose of sanction is not to be punitive but to protect the public and the wider public interest, which includes promoting and maintaining public confidence in the profession and promoting and maintaining proper standards for the profession.
109. The panel also bore in mind the principle of proportionality and balanced the panel's duty to protect the public against the rights of Mr Hignett.
110. The panel identified the following aggravating factors:
 - a. Mr Hignett's misconduct was of a sexual nature and represented a serious abuse of trust, in circumstances where the Sanctions Guidance identifies both areas as likely to attract the most serious sanctions;
 - b. The misconduct the panel found proved continued over a number of years, despite police and regulatory intervention;
 - c. The misconduct involved more than one victim;
 - d. Mr Hignett has demonstrated no remorse or insight into the effect his misconduct was likely to have on very vulnerable service users, public confidence in his profession or the reputation of his colleagues.
111. The panel identified that he had made partial admissions, and this was a mitigating factor. Nevertheless, the panel found that the aggravating factors greatly outweighed any mitigation in this case because of their unusual seriousness and number.
112. Before considering the individual sanctions available, the panel reminded itself of the passages in sanctions guidance relating to misconduct of a sexual nature and abuse of trust. The panel had regard to paragraphs 102 and 103, relating to abuse of trust:
 102. Social workers hold privileged positions of trust. Their role often requires them to engage with people over extended periods when those people may be highly vulnerable. It is essential to the effective delivery of social work that the public can trust social workers implicitly. Any abuse of

trust by a social worker is a serious and unacceptable risk in terms of public protection and confidence in the profession as a whole.

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

113. The panel also had regard to paragraph 105, relating to sexual misconduct:

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

114. The panel considered the sanctions available to it in ascending order, starting with the least restrictive.

115. The panel first considered whether it was appropriate to take no further action. The panel had regard to paragraph 72 of the Sanctions guidance and was satisfied that there were no exceptional circumstances which would justify taking this course. The panel was satisfied that a sanction is necessary in this case.

116. The panel then considered whether it should issue advice or a warning to Mr Hignett. It had regard to paragraphs 75 to 82 of the sanctions guidance and found that neither issuing advice or a warning was sufficiently restrictive to protect the public from the identified risk of repetition nor to uphold the wider public interest.
117. The panel then considered whether it could protect the public by the imposition of a conditions of practice order. The panel had regard to paragraph 84 of the sanctions guidance which provides:
84. Conditions are most commonly applied in cases of lack of competence or ill health. They're less likely to be appropriate in cases of character, attitudinal or behavioural failings, or in cases raising wider public interest issues. For example, conditions would almost certainly be insufficient in cases of sexual misconduct, violence, dishonesty, abuses of trust and discrimination involving a protected characteristic.
118. In its findings at the first two stages of this hearing, the panel found that Mr Hignett's misconduct amounted to the most serious form of attitudinal and behavioural failings. The panel was satisfied that there were no conditions which could be imposed which would adequately protect the public from misconduct carried out in service user's homes or on social media outside working hours. Nor were there any conditions sufficiently restrictive to protect the wider public interest.
119. For the sake of completeness, the panel adds that it would not have any confidence that Mr Hignett would comply with any conditions having regard to the lack of insight he has demonstrated.
120. The panel then considered whether it should impose a suspension order. The panel had regard to paragraph 92 of the Sanctions guidance which provides:
- Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option.
121. The panel noted that the public would be protected from the risk of repetition during the period of any suspension. However, the panel rejected this course for two reasons.

122. First there was no material before the panel that could give it any reassurance that a period of suspension would lead Mr Hignett to remediate his misconduct. On the contrary, his lack of insight into the effect of his misconduct on service users, colleagues and the public, even after the passage of more than 3 years, led the panel to conclude that Mr Hignett was not capable of remediation.
123. Secondly, the panel found that a period of suspension would not be sufficient to maintain public confidence in the profession. The panel considered that caring for the most vulnerable people in society is at the heart of social work. The panel has found that Mr Hignett used his position to exploit the vulnerable people he was meant to care for and that this degree of betrayal does not “fall short of requiring removal from the register”.
124. The panel then considered a removal order and turned to paragraph 97 of the Sanctions guidance, which provides:
 97. A removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England. A decision to impose a removal order should explain why lesser sanctions are insufficient to meet these objectives.
125. For the reasons set out above, the panel is satisfied that no other sanction would protect the public, including the wider public interest, in this case, because no other sanction would send the message that targeting vulnerable service users for sexual gratification is fundamentally incompatible with remaining a social worker.
126. The panel is aware that a removal order may have a detrimental effect on Mr Hignett but is satisfied that there is no other way to protect the public and the wider public interest.
127. Accordingly, the panel orders that Mr Hignett’s name be removed from the register of social workers.

Interim order

1. In light of its findings on sanction, the panel next considered an application by Ms Woolfson for an Interim Suspension Order to cover the appeal period before the sanction becomes operative.

2. The panel accepted the advice of the legal adviser which it has followed in this decision.
3. The panel reminded itself that it can only impose an interim order if satisfied that it is necessary for the protection of the public, including the wider public interest, or in the interests of the social worker. In this case the panel is aware that an interim suspension is in place but will expire in October 2022, which is before any potential appeal is likely to be heard.
4. The panel also reminded itself that it had already found that Mr Hignett posed a risk to service users and that public confidence in the profession would be undermined if he remained on the register of social workers. The panel was satisfied that an interim order was necessary for the protection of the public.
5. The panel next considered whether it would be sufficient to impose an interim conditions of practice order. It was mindful of its earlier findings and decided that it would not be sufficient for the same reason that conditions would be insufficient as a final sanction.
6. Accordingly, the panel concluded that an Interim Suspension Order should be imposed to protect the public. It determined that it is appropriate that the Interim Suspension Order be imposed for a period of 18 months to cover the appeal period. When the appeal period expires this Interim Order will come to an end unless there has been an application to appeal. If there is no appeal, the Removal Order shall apply when the appeal period expires.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social worker may appeal to the High Court against the decision of adjudicators:
 - (i) to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - (ii) not to revoke or vary such an order,
 - (iii) to make a final order.
2. Under paragraph 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the

Social Worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.

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

Review of final orders

5. Under paragraph 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:
 - 15 (2) – The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
 - 15 (3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.
6. Under rule 16 (aa) of Social Work England's fitness to practise rules, a registered social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.