



Social worker: Donna Davies

Registration number: SW124304

Fitness to practise: Final hearing

Date(s) of hearing: 15-16 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 (the regulations).
2. Ms Davies did not attend and was not represented.

3. Social Work England was represented by Ms Tamasin Graham of Capsticks LLP.

Adjudicators	Role
Hilary Nightingale	Chair
Tracey Newson	Social Worker Adjudicator
John Brookes	Lay Adjudicator

Tom Stoker	Hearings Officer
Heather Hibbins	Hearing Support Officer
Gerry Coll	Legal Adviser

Service of Notice:

4. Ms Davies did not attend and was not represented. The panel of adjudicators (the panel) was informed by Ms Graham that notice of this hearing was sent to Ms Davies through her Social Work England portal and by recorded delivery and first class post to her address on Social Work Register (the Register). Ms Graham 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 substantive order review hearing dated 13 July 2022 and addressed to Ms Davies at her postal and email addresses as each appears on the Register;
 - An extract from the Social Work England Register detailing Ms Davies's registered address;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 13 July 2022 the writer sent by email and special next day delivery to Ms Davies at the addresses referred to above: Notice of Hearing and related documents;
6. • A copy of the Royal Mail Track and Trace Document indicating "signed for" delivery to Ms Davies's registered address at 09.33 am on 15 July 2022.
7. The panel accepted the advice of the legal adviser in relation to service of notice.
8. Having had regard to rules 14, 15, and 44 of the Social Work England (fitness to practise) Rules 2019 as amended (the rules) and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Davies in accordance with the rules.

Proceeding in the Absence of Ms Davies:

9. Ms Graham on behalf of Social Work England asked the panel to proceed with the hearing in Ms Graham's absence. Ms Graham submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Ms Davies and as such there was no guarantee that adjourning today's proceedings would secure her attendance. Ms Graham further submitted that Ms Davies had not engaged with Social Work England in its investigation. On the face of it, Ms Davies had consciously waived her right to attend. She therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
10. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. He referred to the panel's discretionary powers in rule 43 and to the cases of *R v Jones* [2003] UKPC 17 and *General Medical Council v Adeogba* [2016] EWCA Civ 162.
11. The panel considered all of the information before it, together with the submissions made by Ms Graham on behalf of Social Work England. The panel considered that it had seen all the papers and there appears to be a voluntary decision to not attend. There was nothing to suggest that an adjournment or a postponement would serve any material purpose or would secure Ms Davies' effective participation. The panel reminded itself that the certificate of conviction is now more than a year old. There is a public interest in hearing cases at the earliest practical opportunity. A delay would not achieve anything favourable to Ms Davies. The panel observed that a directions hearing on 16 May 2022 had issued directions in regard to a timetable for Ms Davies submissions if any. That had not resulted in Ms Davies responding to the directions. The panel noted that Ms Davies had been sent notice of today's hearing in accordance with the rules and the panel was satisfied that she was or should be aware of today's hearing.
12. The panel, therefore, concluded that Ms Davies had chosen voluntarily to absent herself. The panel had no reason to believe that an adjournment would result in Ms Davies's attendance. The panel determined that Ms Davies had voluntarily absented herself from these proceedings. Having weighed the interests of Ms Davies in regard to her attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Davies's absence.

Allegations (As Amended)

13. The allegations are that Ms Davies,

While registered as a social worker:

1. *On 25 March 2021 you were convicted at Swindon Magistrates' Court of three counts of causing a computer to perform function with the intent to secure or enable unauthorised access.*
2. *Your fitness to practise is impaired by reason of your conviction in the United Kingdom for a criminal offence.*

Preliminary Matters

14. Ms Graham on behalf of Social Work England invited the panel to deal with two matters as preliminary matters;
 - to make textual amendments to the text of the allegations, and
 - to allow the witnesses not to be called and to accept their unchallenged witness statements with the respective exhibits to be received in place of their testimony in person.
15. Ms Graham first requested the panel to exercise its discretionary power under rule 32(a) to amend the allegations to read as at paragraph 13 above. Ms Graham submitted the amendments amounted to minor textual amendments to correct an inadvertent misstatement of the terms of the certificate of conviction and also to bring the allegation into line with current drafting standards. The case against Ms Davies had not been altered or made more serious by the proposed textual amendments. Rule 32 requires the panel to conduct the hearing in a manner that it considers is fair. No formal rule on amendments is provided. In the case of *PSA v HCPC & Doree* [2017] EWCA Civ. 319, the court of appeal offered guidance to panels that;
 - panels have a power of amendment to allow the allegation to be supported by the evidence;
 - it is possible for the panel to make amendments even after facts are determined to match the findings in fact;
 - provided the amendments do not prejudice a fair hearing by creating substantial unfairness.
16. The discretionary power given to the panel to regulate its own procedures permits an amendment to be made where the panel is satisfied that it would be fair to do so.
17. The panel accepted the legal adviser's advice and was satisfied that it was right to make the amendment proposed for the reasons set out by Ms Graham. The panel did not identify an unfairness which prejudiced Ms Davies's right to a fair hearing

and the purpose of the amendment was to support the statutory objective to protect the public.

18. Ms Graham next requested that the witnesses be released from being available to give testimony in person. The witnesses evidence was in relation to the background and the issues which gave rise to Ms Davies' conviction. Their statements had not been challenged by Ms Davies. The witnesses had provided comprehensive signed statements which referred to the relevant exhibits. Ms Graham explained that she did not intend to ask the witnesses any questions which went beyond the scope of their witness statements. The witnesses attendance would amount to a formality which would not achieve anything more than would be done by accepting their evidence in statement form. Ms Davies would not be prejudiced.
19. The panel accepted the legal adviser's advice and agreed to the application to 'stand down' the witnesses. The panel understood that both were production witnesses, speaking to records of events rather than as primary observers of facts.

Summary of Evidence

The panel's approach to the decisions to be reached

20. The panel recalled that the guide to fitness to practise updated on 15 April 2021 explains that the adjudicator's task at a hearing is to determine whether the case is 'well-founded'. In doing so, the adjudicators will decide whether:
 - Social Work England has proved the facts alleged to have taken place
 - the facts proven amount to the 'grounds' set out in the allegation (for example, misconduct, a lack of competence or health)
 - the social worker's fitness to practise is impaired as a result of this.
21. In deciding whether Ms Davies's fitness to practise is impaired, the adjudicators will consider whether the evidence available indicates that she may still present a continuing risk of harm, to the public. In doing so the adjudicators will consider the nature and the severity of the incidents which gave rise to Ms Davies's conviction and any actions taken by Ms Davies since the events and since her conviction to address the concerns raised.

Background

22. Ms Graham on behalf of Social Work England explained to the panel that on 29 November 2019 a referral was made to the Health and Care Professions Council (HCPC) in respect of Ms Davies. At that point, the transitional provisions transferring the regulations of social workers to Social Work England were about to come into effect. Accordingly, HCPC passed the matter to Social Work England for investigation.

23. In November 2018, Wiltshire County Council (the council) introduced a software application for use by its social workers called Liquid Logic (the application). The application permitted social workers to share information with partner agencies including Wiltshire Police. The information held on the application was to be treated by social workers as sensitive and confidential. Access to the information by social workers was permitted but only for legitimate purposes defined within;
- social worker staff rules,
 - the council’s information policy, and
 - the Liquid Logic End User Agreement.
24. Ms Davies was employed as a social worker by the council within the Support and Safeguarding Services team. In September 2018 she was trained on the use of the application. Based on her training, Ms Davies was permitted to operate the application within the scope of her employment.
25. In November 2019, the council became aware that a council employee had been accessing information and material held on the application which was outside of the employee’s scope of employment. Ms Davies was identified as the person who was responsible for this. Accordingly, the council conducted a full audit of Ms Davies’ use of the application. Devices used by her to access the application, a laptop and two mobile phones were taken by the police for forensic examination.
26. On 18 November 2019, Ms Davies was arrested by the police. Ms Davies was charged with three counts of causing a computer to perform a function with the intent to secure/enable unauthorised access contrary to section 1 of the Computer Misuse Act 1990.
27. Ms Davies first appeared at Swindon Magistrates’ Court on 25 March 2021 and pleaded guilty to the offences. She was committed for sentence to Salisbury Crown Court and on 30 April 2021 was there sentenced to;
- (i) A cumulative total of 8 months’ imprisonment, suspended for 24 months,
 - (ii) 150 hours of unpaid work, and
 - (iii) A maximum of 10 days’ Rehabilitation Activity Requirements.
28. The certificate of conviction was available to the panel.
- The evidence
29. The evidence regarding the facts behind the conviction was supported by the unchallenged witness statements of two witnesses obtained on behalf of Social

Work England and their respective exhibits including a certificate of conviction. The evidence consisted of the witness statements by:

- i) OW a paralegal at Capstick's LLP, and
- ii) MG a social worker Team Manager at the council.
- iii) The certificate of conviction from the Crown Court at Salisbury was signed by an officer of the court and dated 7 July 2021. The certificate narrated that Ms Davies pleaded guilty to three offences under the Computer Misuse Act 1990 at Swindon Magistrates Court on 25 March 2021. The matter was then transferred for sentencing to the Crown Court at Salisbury where Ms Davies was sentenced as set out at paragraph 28 above.

30. Ms Davies did not submit any evidence for the panel to take into account.

Ms Wragg

- 31. OW is a paralegal at Capsticks, LLP, the solicitors who act on behalf of Social Work England in the regulator's investigations of social workers. OW obtained and produced a number of exhibits which supported the investigation by Social Work England.
- 32. The evidence was that Ms Davies was identified as being responsible for the access to information which was unjustified by the scope of her employment as a social worker. Ms Davies had been trained in the use and the limits of access to the application. That training permitted Ms Davies to become an authorised user of the application provided always that her access to the system fell within the scope of her duties and responsibilities but not otherwise.
- 33. OW's evidence explained to the panel the detail of Ms Davies' unwarranted access to the application.

MG

- 34. MG made the referral of this matter to the HCPC. He was responsible for preparing the council's internal workplace investigation reports.
- 35. The council's audits identified 49 instances of unauthorised access to the application conducted outside of working hours. The instances were broken down into:
 - a. 43 being evidenced in the Application's audit log; and
 - b. 6 being evidenced in the police's Digital Forensic Report of Ms Davies' devices.
- 36. The 49 instances of unauthorised access were revealed to relate to:

33 instances related to Person A and their family

- (i) On 1 March 2019 Wiltshire Police arrested Person A and his son for possession with intent to supply Class A drugs.
- (ii) On 16 March 2019, 2 weeks after Person A's arrest, Ms Davies began accessing records of the family of Person A on the application.
- (iii) Access to these records continued until 24 September 2019, 4 days after a further arrest of Person A that led to him being charged with possession with intent to supply Class A drugs and his being remanded in custody.
- (iv) During the identified instances of unauthorised access 16 documents were accessed and reviewed. These contained case notes and communications with partner agencies surrounding the arrest of Person A and his son. Some of this information came from Wiltshire Police who had provided it to the Multi Agency Safeguarding Hub (MASH) who had, in turn, disseminated the details to the application.
- (v) The audit shows the authorised access took place both from the home address of Ms Davies and from the home of Person A.
- (vi) The police note in the MG5 report that "by the records accessed [the Ms Davies] has sought to undermine an ongoing Criminal Investigation into [Person A], for a serious [indictable] offence by unlawfully viewing, copying and sharing information".

Two instances related to Foster Child C

- i. Foster Child C was fostered between April and August 2018 by Person B, a close friend of Ms Davies whom she knew from 2014 when they were both studying for their degrees in Social Care at Bath University.
- ii. In December 2018 Person B had an exit meeting to discuss Foster Child C's placement. Person B asked Ms Davies if Ms Davies would corroborate Person B's account of certain incidents involving Foster Child C that Ms Davies had witnessed. Ms Davies had accessed Foster Child C's records on 27 November 2018 and 20 February 2019.

Single access incidents

Between 13 December 2018 and 25 September 2019, Ms Davies was responsible for 14 instances of unauthorised access to child or adult records held confidentially by the council.

Finding and Reasons on Facts

37. Ms Graham on behalf of Social Work England invited the panel to find the facts proved. She reminded the panel that the certificate of conviction was self-proving since it was validly authenticated. Ms Davies had not suggested that she was not the person identified in the certificate, which was her sole defence to the fact of her conviction. Ms Graham invited the panel to find that the background facts were provided by credible and reliable witnesses whose statements were objective and factual reports of events.
38. The panel accepted the legal adviser's advice. The panel was aware that the burden of proving the facts was on Social Work England. Ms Davies did not have to prove anything. The allegations could only be found proved if the panel was satisfied on the balance of probabilities. In reaching its decision, the panel took into account the certificate of conviction and the witness statements and exhibits.
39. The panel paid close attention to the nature and quality of the contemporary records relied on by Ms Graham on behalf of Social Work England, accepting that these were matters which were ancillary to the proof of the allegation based on a certificate of conviction. The panel considered that there was nothing to suggest that the records in the exhibits were not complete in regard to the relevant entries, or to suggest that they had later been altered. The entries appeared to have been made routinely and with internally consistent detail which pointed to their reliability as records of events.
40. The panel's observations on the witnesses as follows;

OW
41. The panel considered OW to be an objective witness who recorded factual matters in her statement faithfully and was supported by the exhibits that she exhibited. The panel had no reason to question the authenticity of her statement and accepted her statement as true and reliable.

MG
42. The panel also considered MG to be an objective witness who recorded factual matters in his statement faithfully. He was supported by the exhibits that he exhibited. The panel had no reason to question the authenticity of his statement and accepted his statement as true and reliable.

The certificate of conviction
43. The panel noted that the certificate of conviction was authenticated. The panel accepted that the fact of Ms Davies' conviction was proved by the certificate.

44. Accordingly, the panel found proved that Ms Davies had been convicted as set out in the allegation.

Finding and Reasons on Grounds

45. Social workers play a crucial role in society by empowering people to improve their chances in life. On a daily basis social workers are in a position in which they are entrusted with the safety and welfare of members of the public.
46. Members of the public expect that when they receive support from a social worker, that individual will put their interests first and will be capable of delivering a service that is safe and effective. By acting in a safe and professional manner, social workers safeguard confidence in the services they provide and in the profession as a whole.
47. Ms Graham submitted that Ms Davies' was convicted of a serious offence that involved repeated breaches of confidentiality of data relating to a large number of service users. Ms Davies had acted deliberately and the police were satisfied that she intended to undermine the investigation of a serious indictable offence.
48. In all of these circumstances, Ms Graham invited the panel to find that the grounds of misconduct were made out.
49. The panel accepted the legal adviser's advice. The panel's decision is one of professional judgement, not a matter restricted to the law. There is no evidential gateway or burden of proof, and is not matter of procedural evaluation – it is a matter of professional judgement and impression for the panel. The panel kept in mind what was said by Lord Clyde in *Roylance v GMC [2000] 1 AC 311* at p.331:
50. *"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 of the case."*
51. The panel had no doubt that Ms Davies actions and her conviction which resulted in a suspended custodial sentence in the Crown Court was misconduct. Other members of the profession would regard this as deplorable and reprehensible conduct.

Finding and Reasons on Current Impairment

52. Ms Graham submitted that whether Ms Davies fitness to practise is impaired as a result of her criminal conviction is a matter of professional judgement for the panel. The panel may approach this judgement without the restrictions imposed by the rules of evidence. The panel may take into account the impact that Ms Davies' conviction may have on all the aspects of the statutory objective, including;
- the protection of service users and the safety of members of the public,

- the trust and confidence in which the public hold the profession, which is an essential part of the ability of social workers to act safely and effectively, and
 - upholding the standards to which all social workers in England are held.
53. In the guidance for social workers, Social Work England describes a social worker as 'fit to practise' when they have the skills, knowledge, character, and health to practise their profession safely and effectively without restriction. Fitness to practise is not just about professional performance. It also includes acts by a social worker which may damage public confidence in the profession. This may include conduct that takes place outside of the workplace, such as acts resulting in criminal investigations.
54. Ms Davies will be impaired if she is unable to practice safely and effectively without some restriction on her practice, or at all.
55. Ms Graham submitted that there is no evidence that Ms Davies has any insight into her actions or has made any meaningful attempt at remediation. There is some evidence of her remorse in an email from Ms Davies in response to a welfare contact by the council on 25 March 2022 in which Ms Davies offered an apology to the council. She did not however express any appreciation of the impact of her actions and conviction. In consequence, there remains a risk of repletion, Ms Graham said.
56. Ms Graham also referred the panel to the case of *Council for the Regulation of Health Care Professionals v. General Dental Council and Fleischmann* [2005] EWHC 98 (Admin). Newman J at paragraph 54 said
- 'I am satisfied that, as a general principle, where a practitioner has been convicted of a serious criminal offence or offences, he should not be permitted to resume his practice until he has satisfactorily completed his sentence. Only circumstances which plainly justify a different course should permit otherwise. Such circumstances could arise in connection with a period of disqualification from driving or time allowed by the court for the payment of a fine.'*
57. Ms Graham reminded the panel that Ms Davies is still subject to a period of 24 months within which her custodial sentence remains effective. Accordingly, Ms Davies is not at liberty to resume practice until 30 April 2023 at the earliest.
58. Ms Graham submitted that Ms Davies is unable to practice without restriction because of the impact that her actions had on public trust and confidence in the profession. The public expect that social workers will work in accordance with the relevant legislation, in this case the data protection legislation, and will act in a way that promotes the support of service users and will keep vulnerable individuals safe. Ms Davies' breaches of data protection legislation over a period of time and on

multiple occasions was a profoundly serious thing to do, which significantly reduces the public's ability to trust her again and may damage the trust held in other social workers.

59. Ms Graham submitted that Ms Davies' actions went to the heart of public confidence in the social work profession given that social workers have access to confidential data on all the persons in their care. The police considered that Ms Davies' action had the effect of impeding a live and serious criminal enquiry.
60. In all of these circumstances, Ms Graham submitted that a finding of impairment is necessary because the public would expect that to be the case.

Ms Davies

61. The panel had no submissions from Ms Davies.

Panel's decision

62. The panel accepted the legal adviser's advice. The panel took into account relevant passages in the sanctions guidance published by Social Work England and in particular pages 8 to 12 which outlined the factors to be taken into account when determining impairment. It considered whether Ms Davies's conduct is remediable, whether it has been remedied by her and what was the current risk of repetition. It also considered the wider public interest and the guidance in the case of *CHRE v NMC & Grant* [2011] EWHC 927 that;

'The relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the profession in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

63. The panel also took into account the guidance provided in *Cohen v General Medical Council* [2008] EWHC 581. The panel considered:
 - (i) whether Ms Davies's conduct was easily remediable;
 - (ii) whether she had remedied it; and
 - (iii) whether it was highly unlikely that she would repeat it.

The panel concluded that it would not be easy for to remedy her misconduct, which had revealed a troubling disregard for the confidentiality of data regarding vulnerable service users. Ms Davies had not taken the opportunity available to her to explain how she proposed to begin a process of remediation. There is no response from Ms Davies to suggest how she could ensure the panel

and the wider public that there would not be a repeat of anything similar in the future in any context.

The standards

64. Ms Graham had reminded the panel that cases transferred to Social Work England from the HCPC, under Regulation 16(2)(a) of The Children and Social Work Act 2017 (Transitional and Savings Provisions) (Social Workers) Regulations 2019, meant that the panel will apply the standards of conduct, performance and ethics or other fitness to practise requirement, that was applicable to Ms Davies in 2019 by virtue of Part 5 of the Health Professions Order 2001.

65. The panel considered that the relevant standards were the HCPC Standards of Conduct, Performance and Ethics (2016). The following standards applied to Ms Davies' case:

5.1 You must treat information about service users as confidential.

5.2 You must only disclose confidential information if-

- you have permission;
- the law allows this;
- it is in the service user's best interests; or
- it is in the public interest, such as if it is necessary to protect public safety or prevent harm to other people.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

66. The HCPC Standards of Proficiency (2017) applied to Ms Davies' case:

7. 1 You must be able to understand and explain the limits of confidentiality.

7.3 You must understand the principles of information governance and be aware of the safe and effective use of health and social care information.

67. The panel considered that Ms Davies had breached all of these standards.

68. The panel was in no doubt that Ms Davies's misconduct, in this case, engages the first three limbs in the 'Grant test' laid down in the case of *CHRE v NMC and Paula Grant* [2011] EWHC 927 (Admin), where a test of impairment was formulated beginning at paragraph 76. It was said that an appropriate test for committees is to address a series of questions which assumes that the past is a confident guide to the

future unless something fundamental has changed. Accordingly the court suggested that committees look for answers to the questions which will test for the existence and extent of current impairment.

“Do our findings of fact in respect of the registrant’s misconduct ... show that his / her fitness to practise is impaired in the sense that s/he:

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 brought and / or is liable in the future to bring the medical profession into disrepute and / or

Has in the past breached and./ or is likely in the future to breach one of the fundamental tenets of the medical profession; and / or

...”.

69. Grant did not leave it there. At paragraph 116 the court said that insight is a critical factor in determining current impairment.
70. The panel considered that Ms Davies had not taken the opportunity to grapple with her lack of insight in four critical areas;
- the risks to which she had exposed children and vulnerable service users,
 - the damage that might be caused to public trust and confidence in the profession arising from her unremedied and unrecognised misconduct,
 - the response necessary to support and uphold standards for social workers in England,
 - that she understands the impact of her conviction, and that she has accepted a need to act differently in the future.

71. The panel considered the test recommended in the case of Grant;

Risk of harm

72. Ms Davies has acted in the past (as a social worker entrusted with confidential information) in a way to put several vulnerable service users and children at real risk of harm. The police considered that a risk to their criminal enquiry had been created by Ms Davies’ actions. For the reasons set out above, the panel could not be satisfied that Ms Davies is not liable to do so in the future. Her apology, unaccompanied by any evidence of insight suggest that risk of repetition in the future is highly likely. Ms Davies had shown no deeply felt remorse about the issues that mattered in this case and her commitment to ensuring no repetition was (if it existed) unexpressed.

The reputation of the profession

73. Ms Davies has in the past brought and is liable in the future to bring the profession into disrepute because of her absence of insight set out above. The panel considered that Ms Davies had failed to offer any real understanding of the harm that her actions could cause for the reputation of the profession, which is an essential part of the profession's ability to safeguard children and vulnerable service users.

The fundamental tenets of the profession

74. Ms Davies has in the past and, in the panel's judgement, is liable in the future to breach one of the fundamental tenets of the profession.
75. The responsibility for absolute professional confidentiality which is created when service users entrust their data to social workers is one of the profession's fundamental tenets. Ms Davies had acted contrary to this tenet by her willingness to access confidential data for her own purposes and in the face of the risks created to the wellbeing of service users. She had defied the restrictions expressly imposed on her by the council. The police believed that she had created risks to their criminal enquiry. Ms Davies had repeated her actions over an extended period of time.
76. Ms Davies had committed a serious offence and had been sentenced in the Crown Court. Such a matter is not easily remediated. Ms Davies had not said or done anything that the panel is aware of to suggest that she has begun to repair the injury caused by her actions to
- the interests of vulnerable service users,
 - the wider public interest, or
 - the standards to which all social workers in England are held.

The panel could not be satisfied that it was highly unlikely that Ms Davies would again breach the confidentiality of personal data. On the contrary, without any meaningful engagement showing real and material insight by Ms Davies, the panel was satisfied that it was likely that she would repeat her past misconduct.

77. In all of these circumstances, the panel is satisfied that Ms Davies is currently impaired. Further, the well-informed and objective member of the public would be extremely troubled if a finding of impairment had not been made.

Decision on Sanction

Submissions by Ms Graham

78. Ms Graham on behalf of Social Work England submitted that the panel's findings in respect of Ms Davies's impairment required that a sanction be imposed in order to protect the public. Ms Graham reminded the panel that the statutory objective of public protection includes protecting vulnerable service users, the public and Ms Davies's professional colleagues from risk of harm. It extends also to supporting and preserving the public's trust and confidence in the social work profession, and it serves to declare and uphold the standards to which social workers in England are held.
79. Ms Graham submitted that any sanction must be proportionate to the gravity of the risks posed by Ms Davies. In this case, any sanction less than a removal order would inadequately protect the public.
80. Ms Graham reminded the panel that Ms Davies had not taken steps going towards her
- First; acknowledging the gravity of her disregard of service users confidentiality and the risks to safeguarding children and vulnerable service users,
 - Second; expressing an appropriate level of regret and remorse, and
 - Third; beginning practical remediation aimed directly at addressing her criminal conduct.
81. Ms Graham however reminded the panel that any sanction imposed less than a removal order would require to take into account that Ms Davies cannot return to practice under any restriction until her sentence expires in 2023.
82. Ms Graham addressed the panel on relevant sections of the sanctions guidance published by Social Work England and submitted that the appropriate and proportionate sanction tended towards a removal order rather than a suspension order. Ms Graham pointed out to the panel that the sanctions guidance draws a distinction between a shorter period of suspension which would allow Ms Davies a period of constructive re-evaluation of her professional practice and a longer period which carried the risk of professional deskilling. The latter tends to suggest that a removal order more appropriately protects the public.
83. Ms Graham submitted that there was a risk that Ms Davies had become already de-skilled. She had been suspended by the council in 2019, almost three years before this hearing. Ms Davies had not practiced as a social worker since that time. A further period of suspension could only be effective beginning from the time that Ms Davies' sentence expires in 2023. A suspension taking full effect at that point would result in such a significant period out of practice, perhaps as long as six years, so that de-skilling was inevitable. Any period of suspension imposed by the panel would

have to take account of Ms Davies' lack of engagement and response. A short period would be unlikely to provoke the degree of engagement necessary to make a suspension order meaningful in terms of developing insight and remediation.

84. In such circumstances, where a short period of suspension was inappropriate, the guidance pointed panels towards a removal order. Accordingly, Ms Graham invited the panel to find that a suspension order was inappropriate and inadequate. Accordingly, the panel should order Ms Davies removal from the register.

Panel's decision

85. The panel accepted the legal adviser's advice. The panel kept in mind that the purpose of imposing a sanction is not to punish Ms Davies, but to protect the public which included securing the wider public interest of maintaining trust and confidence in the profession. The panel's objective was to consider what sanction, if any, was necessary in order to fully protect the public, applying the least restrictive but equally effective alternative in every case.

Aggravating and mitigating factors

86. Before considering the individual options open to it, the panel identified what it considered to be the relevant aggravating and mitigating features in the case.
87. The panel was unable to identify any mitigating factors due to Ms Davies having not engaged with the process to explain her conduct and what influenced her decisions.
88. The panel identified the following aggravating factors:
- Ms Davies had apologised to the council but had not expressed remorse or empathy for the service users that she had endangered and failed;
 - There has been no evidence of insight or efforts made towards remediation;
 - There is no understanding on Ms Davies' part of the damaging consequences of her actions for the profession and public support for the profession;
 - There is a real risk of repetition with harmful consequences for service users.

The sanction in ascending order

89. The panel had regard to paragraph 1 of the sanctions guidance which states:

'Social Work England's overarching objective is to protect the public. We do so by protecting, promoting, and maintaining the health and wellbeing of the public; by promoting and maintaining public confidence in social workers in England; and by promoting and maintaining proper professional standards for social workers in England. Our fitness to practise powers enable us to deliver this overarching objective

through proportionate sanctions where an individual social worker's fitness to practise is impaired.'

The panel then went on to consider each of the available sanctions in ascending order of restrictiveness.

No restriction

90. The panel first considered whether this was an appropriate case for it to take no further action, or to impose an advice or a warning order. In the panel's view, the misconduct based on Ms Davies' criminal conviction was very serious. The panel had identified a continuing risk to the public caused by Ms Davies's continuing lack of insight. Ms Davies had not remediated her misconduct, nor had she given any indication of a willingness to do so.
91. The panel noted that these sanctions would place no active restriction on Ms Davies's practice should she return to the profession. Accordingly, the panel concluded that to take no further action, or to impose an advice or warning order would be insufficient to protect the public and would fail to address the wider public interest concerns in this case. In any event, such a sanction was regarded as exceptional. No exceptional circumstances existed in Ms Davies's case.

Conditions of practice

92. The panel next considered the imposition of a conditions of practice order. The panel had regard to the sanctions guidance and noted that such orders are more commonly appropriate in cases involving errors in clinical practice, a lack of competence, or ill-health. These factors were far removed from this case based on the information available and the lack of engagement by Ms Davies.
93. Ms Davies had not demonstrated any understanding that her conviction had caused real harm to the public. She had shown no appreciation of the harm done to vulnerable service users whose information had been misused. Ms Davies had not shown any remorse or any commitment to act differently if the opportunity arose. Ms Davies had subverted the trust that must be placed in every social worker by partner agencies such as the police, that information they provide will be accessed only for limited, legitimate purposes and would be treated as highly confidential.
94. The panel considered that the conditions which might suggest themselves in this situation had, in effect, already been in place in 2018 and 2019. Ms Davies had been trained on the Liquid Logic system and had been trusted to comply with the obligation of confidentiality incumbent on her as a social worker and a signatory the end user agreement. Ms Davies had flouted these in a shocking way. The panel could have no confidence that Ms Davies would comply with a conditions of practice order.

95. In any event, nothing submitted by Ms Davies to Social Work England in the period leading up to her disengagement contained any expression of Ms Davies's wish to embark on the essential, searching steps necessary to attempt to rebuild confidence and trust in her as a social worker.
96. Ms Davies had not shown any appreciation that her actions had the potential to erode the public's trust and confidence in the profession. The panel therefore concluded that in all of these circumstances, it was not possible to formulate any workable conditions that would address this misconduct, protect the public or address the wider public interest concerns in Ms Davies's case.

Suspension

97. The panel gave careful consideration to the imposition of a suspension order. The panel noted that a suspension order would protect the public as it would temporarily remove Ms Davies from the register. The panel also noted that in suitable cases, a suspension order could also mark the wider public interest concerns, including upholding standards and maintaining confidence in the profession. The panel had regard to paragraph 96 of the sanctions guidance which states:

'...If the suspension is aimed primarily at maintaining confidence in the profession or setting the professional standards to be observed, then a sanction of suspension up to one year may be appropriate. Given the risk of deskilling, decision makers should consider whether a case warranting a period of suspension longer than one year on the grounds of public confidence might be more appropriately disposed of by means of a removal order.'

98. The panel also had regard to paragraph 103 of the sanctions guidance which provides:

'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.'

99. The panel considered that these observations had direct relevance in this case.
100. In the panel's view, the circumstances of Ms Davies' conviction weighed heavily against the imposition of any suspension order that could potentially avoid the risk of professional deskilling due to the length of the order.
101. The panel had no evidence that Ms Davies had properly reflected on and understood the seriousness of her misconduct. There was nothing material in regard to genuine

insight. The panel agreed that in all of the circumstances, it would be failing in its duty to protect the public if it were to support Ms Davies's return to practise.

102. Taking all of the above factors into consideration, the panel concluded that a suspension order, even for the maximum of three years, would not be the appropriate and proportionate sanction in Ms Davies's case.

Removal order

103. The panel had particular regard to paragraph 97 of the sanctions guidance which states:

'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.'

104. Accordingly, for the reasons set out above, the panel concluded that a removal order was the only sanction that would sufficiently protect the public, maintain confidence in the profession and maintain proper professional standards of conduct and behaviour for social workers in England.

Interim order

105. Ms Graham made an application under Schedule 2 paragraph 11(1)(b) of the Regulations for an interim order of suspension to cover the appeal period before the substantive order comes into effect, or if Ms Davies appeals, until such time as the appeal is withdrawn or disposed of. Ms Graham made the application on the ground of public protection, which includes promoting public confidence in the profession and maintaining proper professional standards.
106. Having heard and accepted the advice of the legal adviser, the panel was satisfied that an interim order was necessary to protect the public for the same reasons as set out in the substantive decision, particularly having regard to the risk of repetition and the consequent real risk of significant harm to service users and damage to the public's confidence in the profession.
107. The panel next considered what type of interim order to impose. For the same reasons as set out in the substantive decision, the panel considered that there were no workable conditions, and that conditions would be insufficient to protect the public and address the wider public interest considerations.

108. In all the circumstances, the panel decided to make an interim suspension order for 18 Months. In deciding on that length of order (which will expire in 28 days if no appeal is taken) the panel took account of the time that any appeal might take to be heard and resolved.

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 Practise 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.