

Social Worker: Rekha Bennett
Registration Number: SW67475
Fitness to Practise:
Remitted hearing to determine
sanction

Hearing venue: Remote hearing

Date of hearing: 23 and 24 May 2022

Hearing outcome: Removal from the social work register
Interim suspension order – 18 months

Introduction and attendees:

1. This was a remittal hearing held under Part 5 of The Social Workers Regulations 2018.
2. Ms Bennett had previously attended an eight-day fitness to practise hearing, which concluded on 28 May 2021, during which various regulatory concerns were found proved. The panel determined that a finding that Ms Bennett's fitness to practise was impaired was necessary to protect the public and to maintain public confidence in the social work profession and proper professional standards. The panel considered sanction and found that a final suspension order of 12 months was appropriate and proportionate.
3. The Professional Standards Authority for Health and Social Care ("PSA") successfully appealed the sanction before the High Court. In her judgment, dated 13 December 2021, Mrs Justice Williams DBE remitted the matter to the panel to reconsider sanction.
4. Ms Bennett attended and was represented by Mr Phillips, of Queens Counsel, and Mr Forrest, of counsel.
5. Social Work England was represented by Ms Sharpe of counsel, instructed by Capsticks LLP.

Adjudicators	Role
Wendy Yeadon	Lay Chair
Elaine Mackie	Social Work Adjudicator
Robert Fish	Lay Adjudicator

Hearings Team/Legal Adviser	Role
Joel Tweddell	Hearings Officer
Andrew Brown	Hearings Support Officer
Nathan Moxon	Legal Adviser

Allegation:

6. The panel found the following Allegation proved:

“While registered with the Health and Care Professions Council as a Social Worker:

- 1. On 19 December 2018, at Birmingham Crown Court, you were convicted of seven Counts of doing an act to facilitate the commission of a breach of UK immigration law by a non-EU person.*
 - 2.*
 - 3. You falsified a document death certificate for Person A and submitted it as a death certificate for Person A as part of an appeal process*
- 1. Your action at particular 3 was dishonest.*
 - 2. Your conduct described in particulars 2 and/or 3 and/or 4 constitute misconduct.*
 - 3. By reason of your conviction and/ or misconduct, your fitness to practise as a Social Worker is impaired.”*

Background:

7. Ms Bennett was a social worker employed by Birmingham City Council from 2004 as an approved mental health practitioner. She remained in that employment throughout the time related to the Allegation.
8. Ms Bennett met Child A, born 2011, in 2013 during a family visit to Bangladesh. Child A was living with Adult A, who was the widow of Person A.
9. Between 2011 and 2013, Ms Bennett secured entry clearance to the United Kingdom for Child A and Adult A. She submitted documentation in support of their application and gave evidence before the First-tier Tribunal (Immigration and Asylum Chamber) (“the Tribunal”) during a successful appeal against the initial refusal of a visit visa by the Entry Clearance Officer.
10. Upon arrival into the United Kingdom, Child A and the Adult A stayed with Ms Bennett. Ms Bennett wished to adopt Child A. Ms Bennett and Adult A’s relationship soured and Adult A left Ms Bennett’s property, before submitting a complaint to the police, which resulted in Ms Bennett’s arrest on 1 April 2016.
11. Child A was placed in foster care, where she remains. She does not know the identity of her biological family.

12. On 19 December 2018, Ms Bennett was sentenced at the Crown Court at Birmingham, upon pleading guilty to seven counts of assisting unlawful immigration, contrary to section 25(1) of the Immigration Act 1971. She was sentenced to a total of eight months immediate custody. Adult A was a co-defendant on a number of the counts.
13. In summary, the offences involved Ms Bennett and Adult A falsely purporting to be the aunt and mother of Child A:
 - i. Upon an application for entry clearance of Child A, on 6 June 2013;
 - ii. Within a letter written to the British High Commission in Dhaka, Bangladesh, to support an application for Child A's and Adult A's entry clearance, on 20 August 2013;
 - iii. During the Tribunal appeal hearing, during which Ms Bennett also repeated falsehoods in relation to documentation previously submitted, on 4 August 2014;
 - iv. When accompanying Child A to the United Kingdom, on 4 February 2015;
 - v. Within documentation caused to be sent to the Adoption General Register Office, on 9 March 2015;
 - vi. Within an application to extend Child A's leave to remain in the United Kingdom, on 26 March 2015; and
 - vii. Within documentation caused to be sent to the Home Office pursuant to the leave to remain application on 24 August 2015. The documentation included a false birth certificate for Child A and a false death certificate for Person A, who it was dishonestly claimed was the father of Child A. In fact, this was not possible as he had died in 2005.
14. Ms Bennett was sentenced upon the basis that she knew that Adult A was not Child A's mother, that she had not invented the lie that Person A was Child A's father but had perpetuated it; and that her motive was that she had wanted to raise and adopt Child A in the United Kingdom in order to give her the best opportunities in life.
15. Within his sentencing remarks, Mr Recorder Brand QC stated that Ms Bennett's "enterprise" had worked "because of her position of responsibility and status in the community....a senior social worker for Birmingham City Council".
16. Mr Recorder Brand QC identified the following aggravating features:

"It is clear that this case has, as its main aggravating feature, the length of time over which lies were told and repeated, particularly by you, Rekha Bennett. On more than one occasion you submitted false documents to government agencies. You lied ... in the first-tier tribunal and when the Home Office investigation into your co-

defendant's trafficking allegations began you even sent some of those false documents to the police..... You were determinedly and repeatedly dishonest in order to achieve what you wanted".

17. The regulatory Allegation was heard before the panel on 15 to 19 February 2021 and between 24, 27 and 28 May 2021. Ms Bennett admitted paragraph 1 of the Allegation, namely the fact of the conviction, but denied that she had acted as charged. However, in closing submissions, Mr Phillips QC informed the panel that Ms Bennett accepted that she had acted as charged. She denied paragraph 2 of the Allegation, but her evidence was rejected by the panel and paragraph 3, dishonesty, was found proved.
18. During the 'grounds and impairment' stage of the proceedings, which took place in May 2021, Ms Bennett was again equivocal about her wrongdoing and sought to assert that she had made "*mistakes*" and that the immigration solicitors she had instructed in relation to Child A had been negligent.
19. The panel found that the following professional standards had been breached:

HCPC Standards of Conduct, Performance and Ethics (2016)

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

HCPC Standards of Conduct, Performance and Ethics (2012)

Standard 3 – You must keep high standards of personal conduct

Standard 13 – You must behave with honesty and integrity and make sure that your behaviour does not damage the public's confidence in you and your profession

HCPC Standards of Proficiency for Social Workers (2017; 2012)

Standard 3.1 – understand the need to maintain high standards of personal and professional conduct.

20. The panel concluded that Ms Bennett's fitness to practise was currently impaired both as a consequence of her conviction and misconduct. It found that, whilst Ms Bennett was remorseful for the consequences of her actions, it was:

"...not persuaded that she fully appreciated the gravity of her conduct or the impact that it could have for service users, the profession and the public..... It was noteworthy that when offered an opportunity to explain the impact of the situation on Child A, Ms Bennett said they had happy times together and the harm was caused when Child A was removed from her. There was no apparent recognition that it was Ms Bennett's actions in illegally trafficking Child A to the UK that put Child A in the position of being removed - indeed, the panel considered that it was completely foreseeable that this was a probability if the illegal entry of Child A to the UK was

discovered. Despite the findings of the panel in February on facts, Ms Bennett's evidence to the panel remained focused upon herself, ignoring the impact of her actions upon Child A and Adult A."

21. The panel noted that, whilst the determination of facts was handed down during the February 2021 portion of the hearing, Ms Bennett had failed to provide any reflection for the impairment stage three months later, when the hearing was reconvened.
22. During the sanctions stage, in May 2021, the panel identified mitigating and aggravating features. In mitigation, it noted Ms Bennett's previous good character. It found that the matter was aggravated by the fact that false information was provided and relied upon repeatedly in multiple legal jurisdictions and that she was an experienced social worker. It also identified that Child A was now in foster care with no knowledge of her natural family. The panel found that Ms Bennett had:

"..not demonstrated sufficient insight or remediation for her conduct and that there was a risk, albeit low, of repetition of dishonest conduct. The panel did not have confidence that Ms Bennett truly understands why the regulator is so concerned about her conduct".

23. The panel determined that a 12-month suspension order was proportionate and appropriate as Ms Bennett *"...is clearly committed to her profession and her skills and experience which could benefit service users and her colleagues and, therefore, the public at large."* It determined that a period of 12 months would allow time for Ms Bennett to reflect.
24. The Professional Standards Authority ("PSA") successfully appealed the sanction before the High Court. In her judgment, dated 13 December 2021, Mrs Justice Williams DBE remitted the matter to the panel to reconsider sanction.
25. Mrs Justice Williams DBE, at paragraph 72 of her judgment, provided a summary of the panel's findings:

"1. Ms Bennett was responsible for dishonesty "sustained over a number of years in multiple legal fora" involving false information that was "provided and relied upon repeatedly";

2. Her criminal convictions, coupled with their findings, identified a propensity on her part to attempt to circumvent due process by allowing inaccurate information to be presented to the authorities;

3. Her misconduct revealed attitudinal deficiencies that had yet to be wholly recognised or addressed by her and her actions were "attitudinal in nature and could not be divorced from her professional practice":

4. She had not demonstrated sufficient insight or remediation and they did “not have confidence that Ms Bennett truly understands why the regulator is so concerned about her conduct”:

5. She had failed to provide a reflective piece demonstrating her learning and evolution in respect of her dishonest conduct, even though there had been three months since the Committee’s decision on the facts.”

26. Williams J stated, at paragraph 73, that in light of those findings there should have been *“....a clear, reasoned explanation as to why removal was not considered to be the appropriate sanction”*.

27. Williams J did not find that the panel’s sanction decision was *“wrong”*, but identified serious procedural irregularity in the failure to adequately explain its decision on sanction:

1. A lack of reference to Ms Bennett’s conduct being highly damaging to public trust in social workers and their regulator (paragraph 78);
2. No reference to the panel’s reasons in relation to the importance of maintaining public confidence in the profession or the need to declare and uphold standards (paragraph 79); and
3. There was *“very limited reasoning”* as to why the panel considered suspension appropriate, particularly when considering public confidence in the social work profession and promoting proper professional standards (paragraph 80).

28. Williams J also found that, whilst not irrational, the panel’s assessment that Ms Bennett’s actions were remediable and that risk of repetition was low were not supported by adequate reasons.

29. At paragraph 95, Williams J summarised that the panel had failed to give adequate reasons:

“(1) In relation to its finding that the misconduct was remediable-

a) in failing to explain why it considered the risk of repetition was low;

b) in failing to indicate whether it had concluded that her misconduct and convictions did not impact on her future practice as a social worker and, if so, how it had arrived at that assessment in light of the findings made regarding her propensity and attitudinal deficiencies; and

c) in terms of identifying what it had decided in relation to the insight she had developed thus far and in terms of her ability to acquire further insight and the bases for these conclusions.

(2) As to why Ms Bennett’s name could remain on the register without undermining public confidence in the profession and the maintenance of standards.”

30. At paragraph 96, she stated that there had also been a failure to give adequate reasons for the conclusion that a removal order would be disproportionate.

31. At paragraph 99, Williams J expressed a preference that the matter of sanction be remitted to the same panel:

“I do not consider that the failings I have identified in this instance are so fundamental or extensive as to require remission to a differently constituted committee. There are also advantages in the matter returning to the same committee because it had the benefit of hearing the oral evidence in relation to each stage of the proceedings.”

32. Williams J issued the following Order:

1. The Appeal is allowed ...

2. The sanction decision of the First Respondent’s panel of adjudicators dated 28 May 2021 in relation to the Second Respondent is quashed. For the avoidance of doubt, the determinations on the facts, misconduct and impairment made by the panel of adjudicators in relation to the Second Respondent, remain undisturbed.

3. The matter shall be remitted to a panel of adjudicators of the First Respondent for redetermination of the question of sanction in accordance with the following directions:

a. The adjudicators shall be provided with a copy of the judgment on appeal;

b. The adjudicators shall redetermine the question of sanction in accordance with the principles set out in the judgment on appeal; and

c. The adjudicators shall produce a reasoned decision on sanction that meets the requirements of paragraphs 70, 111 and 112 of the Social Work England Sanctions Guidance and addresses the issues identified in the judgment on appeal as not having been reflected in the previous adjudicators’ decision.

33. The matter of sanction was therefore remitted to the same panel, which heard submissions and determined the matter on 23 and 24 May 2022.

34. The panel had regard to the Sanctions Guidance, and particularly those identified by Williams J:

“70. The reasons why each sanction has been rejected or directed must be fully explained in the decision.

...

111. *It is ... essential that the decision gives reasons that enable a third party with no prior knowledge of the case to understand the basis of the case against the social worker, and how and why the decision was reached.*

112. *The reasons for the decisions on impairment and sanction should include the following:*

- *A description of the events giving rise to the fitness to practise concern;*
- *A summary of the key facts that raise a question of impairment;*
- *An analysis of the reliability and credibility of the evidence in support of the key facts, including where appropriate the credibility of witness evidence;*
- *A summary of where the key facts are contested;*
- *Where appropriate, an explanation of how and why the adjudicators have resolved conflicts of evidence over key facts. Case examiners should not normally resolve conflicts of evidence but are entitled to reject challenges to evidence that is plainly undeniable;*
- *The factors the decision makers have considered in assessing seriousness and impairment and the relative weight given to each factor. Care must be taken to address and explain all the factors both for and against the social worker; and*
- *The reasons for the decision on impairment or sanction. These may include a summary of the facts and the factors as already set out. The reasons should explain the decision makers judgment on the current risk to public safety, including any risk to the maintenance of confidence in the profession and of standards of professional performance of social workers."*

Evidence and Submissions:

35. Ms Bennett submitted written evidence of mitigation, particularly the effect that the matters have had upon herself and her family. She has not been able to work and her marriage has broken down. She concluded that: *"I have been through unbearable pain and uncountable losses. If I describe them with all the details then the list will be too long."*
36. Three updated testimonials were adduced by people who had provided testimonials before the panel previously. They asserted that Ms Bennett could safely return to social work practise and they detailed her commitment to the social work profession. They referred to Ms Bennett as having made *"mistakes"*.
37. Mr Greaves, a team manager for the Community Mental Health Team at Birmingham, provided an updated testimonial, in which he detailed that the convictions do not *"...directly impact [Ms Bennett's] ability to practice as a Mental health social worker..."*. He concluded

that, as a Bengali speaker, Ms Bennett would be “*ideally suited*” for a role within his team, which serves a large Bengali-speaking community, of approximately 30,000. He said that he is not aware of any Bengali-speaking social workers in the local area.

38. Mr Greaves gave oral evidence, during which he stated that he qualified as a social worker in 1998. He worked in Birmingham since 2000 and in a management position since 2006. He currently manages 14 people. There is a caseload of over 2,128 people, a large proportion of which are Bengali speakers. Approximately 200 of the 2,128 require a care coordinator. He does not know the breakdown of ethnicity of those 200 people. None of his staff speak Bengali. He stated that he has difficulty recruiting people with the same language and culture as service users, and that it is generally difficult to recruit social workers.
39. Mr Greaves highlighted that an understanding of a service user’s culture and language would assist the assessment and treatment of the service user. He said that interpreters can translate what is said but they do not have the nuance of mental health terminology. There have been “*one or two occasions*” where interpreters have not translated accurately. He said that he had in the past been “*let down*” by interpreting services.
40. Mr Greaves stated that he had worked with Ms Bennett in the past, managed her between 2004 and 2008, and considered her to be a “*..very dedicated individual*”. During her employment, she trained to be an Approved Mental Health Professional (“AMHP”) and demonstrated the abilities and qualities to undertake the role. He worked with her for six years and never witnessed her acting dishonestly or unethically.
41. Mr Phillips QC asked Mr Greaves how, in light of the background of Ms Bennett’s conviction and misconduct, he could be satisfied that there would be no concerns in Ms Bennett’s practise. Mr Greaves replied that he was of the view that the matters related solely to Ms Bennett’s social life and were “*.....a unique set of circumstances*”. He considered them “*...separate from her professional career*”. He would be willing to employ her within his team and act as her mentor and reporter to monitor her progress and actions.
42. In cross-examination, Mr Greaves was asked how he had obtained his numbers in relation to the number of Bengali speakers in his region, and he stated that it would have been within literature but he could not recall the exact source. He said that out of the 14 members of his team, none of them are social workers. The service users are also treated by a larger range of professionals, such as psychiatrists, nurses and occupational therapists. He stated that his assertion that Birmingham City Council does not employ any Bengali-speaking social workers is his understanding “*anecdotally*”. He does not himself work for the Council and his team does not have active engagement with social workers.
43. Mr Greaves was asked how many social workers his team was recruiting and he said that they were not doing so and that in the past they had instead recruited for care workers who

need not necessarily have a social work background. He was asked what efforts were made to recruit Bengali speakers and he stated that he had in the past sought to recruit and not been successful. He accepted that he was not solely responsible for the recruitment of staff. He was asked whether the fact that someone had been dismissed would prevent Birmingham City Council from recruiting them and he said that it depended on the circumstances. He stated that the Council would also consider criminal convictions when determining whether to recruit a person.

44. Mr Greaves stated that he understood the nature of Ms Bennett's criminal conviction, namely dishonesty and falsifying documentation, but maintained that he perceived Ms Bennett to be honest, as he had never seen her act otherwise. He was not working with her at the time of the criminal activity, but had maintained contact with her.
45. Ms Sharpe noted that Mr Greaves had stated that the conviction and misconduct related to Ms Bennett's private life. He was asked how he could reconcile his assessment of her fitness to practise with the professional requirement to maintain high standards of personal and professional conduct. He answered that Ms Bennett had suffered hardship as a result of these matters, has been unable to work as a social worker and that matters related to a number of years ago.
46. Mr Greaves agreed that his team manages some of the most vulnerable adult service users. He was asked whether he agreed that the service users and their families have the right to trust and expect that their social worker was honest. He stated that the skills possessed by Ms Bennett are what he would expect of from an AMHP.
47. Within a written 'statement of case', dated 27 April 2022, Social Work England argued that the panel was required to redetermine the issue of sanction, as opposed to simply adding to its previous reasons, and should have particular regard to the following:
 - “ • The harm to public confidence in the profession caused by the Social Worker's actions;*
 - The harm to public confidence in the profession caused by the Social Worker remaining on the register;*
 - The level of remediation and insight demonstrated by the Social Worker between her convictions and the 2021 hearings;*
 - The proportionality of a removal order, particularly in light of the need to maintain public confidence in the profession and social work standards.”*
48. It was argued that the appropriate sanction was one of removal from the social work register:

“....no other, less restrictive, sanction will adequately protect the public, including the fundamental considerations of declaring and upholding proper standards of conduct and behaviour so as to maintain public trust and confidence in the profession..... In this case of sustained, persistent, serious dishonesty, which caused actual harm to a vulnerable child, coupled with a lack of insight and remediation on the part of the Social Worker, demonstrated by her continuing dishonest denials and attempts to minimise her conduct, a removal order is required to protect the public, including the wider public interest in maintaining public trust and confidence in the profession.”

49. In oral submissions, Ms Sharpe identified that the findings of fact, misconduct and impairment remain, as they had not been interfered with by the High Court. The sole matter remitted to the panel was in relation to sanction.
50. She argued that, in all of the circumstances, no action or issuing advice and a warning would not be appropriate. Workable and proportionate conditions could not be formulated in light of the gravity of the case and the fact that they relate to attitudinal matters.
51. In relation to the appropriateness of suspension, Ms Sharpe directed the panel to paragraphs 92 to 96, and paragraphs 106 and 109 of the Sanctions Guidance.
52. Ms Sharpe argued that, whilst the dishonesty occurred in Ms Bennett’s personal life, she was at the time a senior social worker and dishonesty is attitudinal. She highlighted Mr Recorder Brand QC’s sentencing remarks, as outlined above. She reminded the panel that social workers are often required to complete formal documentation and attend courts and tribunals. As such, Ms Bennett’s dishonesty was capable of impacting on her professional duties and the wider public interest.
53. She also relied upon paragraph 40 of the Sanctions Guidance, that “....dishonesty are examples of cases that are likely to be viewed particularly seriously given the access social workers have into people’s homes and lives”.
54. She also identified paragraph 30 as particularly pertinent in light of the panel’s determination as to insight:

“The risk of repetition is higher where the social worker fails to understand fully what they have done wrong. Insight needs to be complete rather than partial if the risk of repetition is to be sufficiently minimised so that restriction of practice is not needed.”

55. Ms Sharpe concluded that the protection of the public and wider public interest requires a sanction of removal. There was repeated dishonesty over a period of over 2 years which has caused harm to a child, for which Ms Bennett had demonstrated little insight. Ms Sharpe argued that whilst all of the dishonesty was in relation to the immigration of Child A, there were a total of 7 criminal offences, together with the falsification of the death certificate.

Ms Bennett had created false documents and relied upon them before different agencies on different occasions. Her dishonesty was repeated. She was found by Mr Recorder Brand QC to have had a “*leading role*” in the offending. Her actions were intended to circumvent due process. She had ample opportunity to withdraw from the enterprise but did not do so.

56. Ms Sharpe stated that the aggravating features in the matter are that there was a failure of a basic tenet of the social work profession, namely honesty. Ms Bennett was an experienced social worker. There is an identified lack of insight and remediation. Ms Bennett has caused foreseeable emotional harm to Child A.
57. In relation to mitigation, Ms Sharpe highlighted that Ms Bennett has no previous regulatory findings against her and she has adduced evidence of good practise. In relation to the personal mitigation provided to the panel, particularly by way of the written evidence from Ms Bennett, Ms Sharpe stated that this should be given less weight than it would in other cases, given the circumstances of the case.
58. Mr Phillips QC provided written submissions on behalf of Ms Bennett, in which he argued that a removal order would be a “...*wholly disproportionate response to the admitted behaviour between 2013 and 2015*”. He submitted that the dishonesty formed part of a “...*single and connected sequence of events*...”. He stated that the motivation for the dishonesty was to transform Child A’s life. He concluded that the appropriate sanction was a suspension order of no more than three months.
59. In oral submissions, Mr Phillips QC stressed that Williams J had not found that removal was the only lawful sanction available. She did not allow the appeal on the basis of the reasonableness of the sanction, but on account of the lack of reasons. During the High Court hearing, Social Work England had accepted that removal was not inevitable. He invited the panel to reach the same or similar decision as it had done in May 2021, albeit with further reasons.
60. Mr Phillips QC took the panel through the summary of findings, as outlined at paragraph 72 of the High Court judgment and repeated above.
61. He stated that, in relation to the fact that the dishonesty had been sustained, it all arose and flowed from one set of circumstances and could be distinguished from someone who acts dishonest in a number of ways. As such, he argued that Ms Bennett does not have a propensity towards dishonesty. Instead of appreciating her mistake and admitting to it, as she should have done, she continued and has experienced the consequences that have flowed. He accepted that, whilst there was a sequence of events, it was wholly different from circumstances where there are acts of dishonesty that are not a perpetuation of an original deceit.
62. Mr Phillips QC argued that there were exceptional circumstances in this case which would allow the panel to impose a sanction other than removal from the social work register.

63. In relation to attitudinal deficiencies, as identified by the panel in its finding of impairment, Mr Phillips QC stated that social workers, and Ms Bennett, are likely to be confused by regulatory proceedings, which have different legal considerations to those within the criminal courts. He argued that she was not sophisticated or experienced in such matters, given her unblemished record. Therefore, it was not surprising that she was confused when expressing mitigation rather than insight. In any event, he reminded the panel that it had not found a complete lack of insight.
64. Mr Phillips QC highlighted that it was now seven years since the offending behaviour and five years since Ms Bennett's dismissal and so she has had sufficient time to develop insight. The panel had found that a year's suspension would give her an appropriate opportunity to reconsider the matter and prepare a reflective piece. She has taken that opportunity.
65. In relation to the panel's determination that Ms Bennett had failed to express an understanding of her wrongdoing or why her regulator was concerned about her conduct, Mr Phillips QC stated that it was clear from the panel's previous findings that there was a degree of insight.
66. Mr Phillips QC highlighted that the panel had assessed the risk of repetition as "*low*". He reminded the panel that looking to the future is important, and they have assistance from Mr Greaves who would wish to employ Ms Bennett in the future. He stated that Mr Greaves had been fully supportive of her throughout these proceedings.
67. He argued that the risk of repetition must be minimal and that there is almost no likelihood of her repeating the behaviour which has resulted in her conviction and finding of misconduct. He highlighted how she had been punished for her attempts to do good and "*....it is difficult to imagine a more traumatic or calamitous series of events, sacked from her job, losing the adoption that she had sought, sent to prison, unable to get a job upon release, lost her good name, had to undergo proceedings before a disciplinary panel*". He said that it was therefore inconceivable that she would repeat the behaviour that had resulted in those consequences to her.
68. Mr Phillips QC argued that Ms Bennett had all the resources to develop full insight and to prepare written reflections that she had "*...fully learnt her lesson*".
69. He argued that there were benefits to the wider public interest of Ms Bennett being permitted to practise as a social worker, as demonstrated by the evidence from Mr Greaves of having difficulty recruiting social workers and Bengali speakers.
70. Mr Phillips QC took the panel through the written mitigation provided by Ms Bennett. They are wide-ranging and have impacted upon her family. Mr Phillips QC accepted that these features do not outweigh the need for good and honest social workers, but said that they were not irrelevant given Ms Bennett's background as a well-respected professional. She would be supported in returning to social work by Mr Greaves and may result in him being able to recruit an experienced, Bengali-speaking, AMHP who knows the geographical area.

The panel's approach:

71. The panel accepted the following legal advice, which counsel for both parties stated had been agreed in advance:

- 1) *When exercising its functions, the panel must pursue the following objective:*
 - a. *to protect, promote and maintain the health, safety and well-being of the public;*
 - b. *to promote and maintain public confidence in social workers in England; and*
 - c. *to promote and maintain proper professional standards for social workers in England.*
- 2) *The purpose of sanction is not to be punitive although the sanction imposed may have a punitive effect. The panel must apply the principle of proportionality; balancing Ms Bennett's interests with the public interest.*
- 3) *The decision as to the appropriate sanction, if any, to impose is a matter for the panel exercising its own judgement. It should consider the least restrictive sanction first and then, if necessary, consider the other sanctions, taking into account the evidence and submissions that have been heard. The panel shall consider any relevant mitigating and aggravating factors and address them within the context of the determination. The panel shall also consider its determination on impairment and take those matters into account during its deliberations on sanction. The panel shall take into account its assessment of insight, remediation and risk of repetition.*
- 4) *Ms Bennett has been found to have acted dishonestly. The starting point is that dishonesty by a registrant is almost always extremely serious. There are numerous cases which emphasise the importance of honesty and integrity by professionals, and they establish a number of general principles. Findings of dishonesty lie at the top end of the spectrum of gravity of misconduct. Where dishonest conduct is combined with a lack of insight, is persistent, or is covered up, nothing short of erasure is likely to be appropriate. The sanction of erasure will often be proper even in cases of one-off dishonesty. The misconduct does not have to occur in a professional setting before it renders erasure, rather than suspension, the appropriate sanction. Misconduct involving personal integrity that impacts on the reputation of the profession is harder to remediate than poor professional practise. In such cases, personal mitigation should be given limited weight, as the reputation of the profession is more important than the fortunes of an individual member.*
- 5) *That does not mean that erasure is necessarily inevitable and necessary in every case of dishonest conduct by a social worker. There may be cases where the panel concludes in light of the particular circumstances of the case that a lesser sanction may suffice and is appropriate, bearing in mind the important balance of the interests of the profession and the interests of the individual. Factors that are likely to impact on such decisions are infinitely variable, but may include the nature of the*

dishonesty, the fact that in a particular case it appears to be out of character or isolated in its duration or there may be very compelling evidence of insight and remorse that would justify a conclusion that the registrant could return to practice without the reputation of the profession being disproportionately damaged. It is not the case that it is only in exceptional cases where erasure would be a disproportionate sanction. Where misconduct is so serious that nothing less than erasure would be considered appropriate, the ability of the practitioner cannot justify a lesser sanction simply because the practitioner is skilful, but if erasure is not necessarily required, the skills of the practitioner are a relevant factor. The imposition of a restriction upon the ability of an individual to practice, such as a suspension, is a serious sanction.

- 6) That is a summary of the relevant law, but the panel should read with care in full Mrs Justice Williams' judgment, particularly paragraphs 53 to 58 in relation to the authorities related to dishonesty.*
- 7) In reaching its decision the panel must take into account the sanctions guidance, published in November 2019. The Sanctions Guidance not only gives guidance as to the various sanctions, but also how to evaluate insight and remediation. If the panel departs from the Sanctions Guidance, the relevant paragraph should be referenced and clear reasons given for doing so.*
- 8) The panel's determination and reasons must be outlined in writing. The panel is reminded of the High Court's Order to have regard to paragraphs 70, 111 and 112 of the Sanctions Guidance. The panel should also carefully review Mrs Justice Williams's judgment at paragraphs 72 to 100 as to the giving of reasons and the overall approach to be adopted.*

The panel's decision:

72. The panel, throughout its deliberations, had particular regard to the submissions by Ms Sharpe and Mr Phillips QC as to the approach that should be taken to the sanction determination.
73. It accepted Ms Sharpe's submission that it was required to redetermine the issue of sanction, as opposed to simply adding to its previous reasons.
74. Similarly, it accepted the submission from Mr Phillips QC that a suspension order was not held by Williams J to be the wrong sanction, and that she had said that in certain circumstances it may be appropriate.
75. In summary, the panel considered sanction with fresh eyes and an open mind. It took into account all of the evidence and submissions before it and had particular regard to the overarching objective, its previous findings of fact and impairment, the helpful guidance provided by Williams J and the Sanctions Guidance.
76. The panel first considered mitigating features. The primary mitigation is that Ms Bennett has an otherwise unblemished and lengthy social work career and there is sufficient evidence

that she has been a committed and hardworking social worker. The panel also took into account that she brings skills and abilities that are of particular benefit to her local community, for example she is familiar with the Bengali language and culture.

77. The panel took into account, and gave some weight, to the mitigating features conveyed by Ms Bennett within the document provided, but considered that these were mostly foreseeable consequences of her own criminal and dishonest behaviour.
78. The panel gave considerable weight to the fact that Ms Bennett's actions were motivated towards securing a better life for Child A. However, that is undermined by the fact that, as found by Mr Recorder Brand QC in his sentencing remarks, she was also motivated by selfishness:

"Even if I accept that you both did this because you believed [Child A] would have a better life and more opportunity in the UK than in Bangladesh, and I do accept that, but even allowing for that, there was a degree of selfishness about it by both of you, in my judgment. You Rekha Bennett wanted a little girl, you ... knew full well that by acting in the way you did, you were ensuring that there was no proper scrutiny of this adoption by the authorities in Bangladesh."

79. In relation to remediation, the panel noted that dishonesty is attitudinal and difficult to remediate. It gave credit to the fact that Ms Bennett did plead guilty to the criminal offences and has expressed some remorse. However, that was partly undermined by her evidence to the panel in which she sought to deny the offences.
80. Ms Bennett can only be given credit for very little insight, as detailed later in this determination.
81. In relation to the testimonial evidence, the panel noted that the authors described Ms Bennett as being honest and trustworthy. However, they were clearly not objective witnesses, as evidenced by the fact that they referred to Ms Bennett's "mistakes", which fundamentally minimises her repeated and sustained criminal behaviour.
82. The panel did not consider Mr Greaves to be a compelling witness. The thrust of his evidence was that his team was in need of Bengali-speaking social workers and that he would wish to employ Ms Bennett. However, when this evidence was tested, he was unclear as to the number of Bengali speaking service users and his evidence that there were no Bengali-speaking social workers in the region was admitted to be "anecdotal". Whilst he would wish to employ Ms Bennett, he accepted that it would not be solely his decision and that matters such as her conviction and misconduct would have to be considered by those that make the decisions. The argument that she would obtain a job with his team was therefore speculative.
83. Whilst minimal weight can be given to the fact that Ms Bennett has engaged with proceedings, as this is her obligation as a registrant, the panel nevertheless did assign some weight to the fact that she has engaged and had given evidence at the earlier substantive hearing.

84. The panel noted that the dishonesty was not connected with Ms Bennett's social work practise, but the panel reminded itself of Mr Recorder Brand QC's sentencing remarks that her role in society had assisted the success of her criminal enterprise. It also noted that, as a social worker, she may be required to complete legal forms and attend courts and tribunals to give evidence.
85. The panel took into account the passage of time since the dishonest behaviour and the fact that it has not been told of any subsequent allegations of dishonesty.
86. The panel then considered the aggravating features.
87. Ms Bennett's criminal behaviour spanned a period of over two years, during which she sought to deceive multiple agencies by conveying mistruths and submitting falsified documentation. She was dishonest when she submitted an application for Child A's and Adult A's entry clearance to the United Kingdom; she was dishonest to the British High Commission in Dhaka, Bangladesh, and the Adoption General Register Office; she was dishonest to the First-tier Tribunal (Immigration and Asylum Chamber); she was dishonest when she brought Child A into the United Kingdom; she was dishonest when she applied for Child A to remain in the United Kingdom; and she was dishonest to the Home Office and the police. She had also sought to rely upon falsified documents.
88. Her actions breached a fundamental tenet of the social work profession, namely to act with honesty and integrity. She would have known that this was a fundamental tenet given her lengthy experience within the social work profession.
89. The submission from Mr Philips QC that Ms Bennett had not demonstrated a propensity for dishonesty, as her actions all flowed from the same untruth, was dismissed by the panel. Ms Bennett had demonstrated a propensity to be dishonest to various public bodies. She could have ceased her actions at any point. Upon making the dishonest application for entry clearance, she could have abandoned the application, rather than perpetuating the dishonesty within her communication with the High Commission. Upon the application being refused, she could have ceased her dishonest action, rather than attend the Tribunal and lie before the Tribunal Judge. Upon succeeding in her appeal, she could have abandoned her efforts to bring Child A to the United Kingdom and put a stop to the enterprise. Instead, she travelled to Bangladesh to bring Child A into the United Kingdom, away from Child A's home country and real family, under false pretences. Again, upon doing so, she could have remedied her dishonesty, but instead she embarked upon another application concerning Child A's immigration status, in which again she was dishonest and relied upon falsified documentation.
90. She repeatedly lied to circumvent due process.
91. As identified by Mr Recorder Brand QC, Ms Bennett was "*...determinedly and repeatedly dishonest in order to achieve what [she] wanted*".
92. He also noted that Ms Bennett had taken "*...a more leading role in this enterprise in terms of procuring and providing false documents*".

93. Reasonable members of the public and the social work profession, possessed with these facts, would be appalled by Ms Bennett's criminal behaviour and misconduct. That is all the more inevitable given Mr Recorder Brand QC's sentencing remark that:

"The enterprise worked in significant part because of her position of responsibility and status in the community in this jurisdiction. She was a senior social worker for Birmingham City Council."

94. A further significant aggravating feature is that Child A, having been removed illegally from her own country, is now in care and may never know the identity of her real family.
95. There has been a significant lack of insight evidenced by Ms Bennett. The panel did find that there was some insight. It went on to assess that within its findings on grounds and impairment, particularly paragraph 140, in which it determined:

"....Whilst accepting that Ms Bennett understood and was remorseful for the consequences of her actions, it was not persuaded that she fully appreciated the gravity of her conduct or the impact that it could have for service users, the profession and the public. The panel had no doubt that Ms Bennett appreciated the undoubtedly severe impact on her, but was concerned that she did not appear to recognize that such an action was attitudinal in nature and could not be divorced from her professional practice. It was noteworthy that when offered an opportunity to explain the impact of the situation on Child A, Ms Bennett said that they had happy times together and the harm was caused when Child A was removed from her. There was no apparent recognition that it was Ms Bennett's actions in illegally trafficking Child A to the UK that put Child A in the position of being removed – indeed, the panel considered that it was completely foreseeable that this was a probability if the illegal entry of Child A to the UK was discovered. Despite the findings of the panel in February on facts, Ms Bennett's evidence to the panel remained focused upon herself, ignoring the impact of her actions upon Child A and Adult A."

96. The panel dismissed the submission from Mr Phillips QC that this was due to "unsophistication" and a confusion between mitigation in criminal proceedings and insight in regulatory proceedings. Ms Bennett has had the benefit of legal representation and could at any time have contacted Social Work England if she was unsure of what was expected of her. In any event, any confusion does not mitigate the fact that when asked to reflect on her criminal behaviour and misconduct, she sought to minimise her actions, blame others and focus on the negative effects upon herself rather than, for example, Child A, or to the reputation of the social work profession. The lack of insight was all the more notable in light of the fact that she first gave evidence to the panel in February 2021, over two years after her conviction. During that period, she had clearly failed to utilise the lengthy passage of time, some of which in incarceration, to reflect upon her dishonest actions and the affects it had upon Child A, her profession and public confidence in social workers. Further, upon the dishonesty being proved by the panel in February 2021, she failed to utilise the following three months to reflect upon her actions and their consequences on others, but instead

gave evidence in May 2021 before the panel where she again failed to demonstrate adequate insight and remediation. By that point, almost 2 ½ years had passed since her conviction, and over 5 years had passed since her criminal behaviour.

97. Ms Bennet had therefore had ample opportunity to develop and evidence genuine and timely insight, but had failed to do so when she gave evidence for a second time before the panel in May 2021.
98. Having taken into account the mitigating and aggravating features, the panel accepted Mr Phillips QC's submissions that it was highly unlikely that Ms Bennett would act in the way that has led to the conviction and findings of misconduct, as they are a unique set of circumstances. The panel accepted that she is unlikely to seek to deceive immigration agencies in order to illegally bring a child to the United Kingdom to adopt, as she knows the personal consequences to her of being caught. However, the panel did find that there is a low, but real and present, risk of Ms Bennett acting dishonestly in order to serve her own wants and needs. That conclusion is drawn from the fact that her proved dishonest behaviour was repeated and spanned a long time, and that she has failed to evidence adequate insight into her behaviour. The panel also considered paragraph 26 of the Sanctions Guidance to be particularly pertinent: *"risk of repetition is likely to be higher where insight is lacking or remediation is incomplete"*.
99. The panel then considered the appropriate sanction.
100. The panel considered that taking no action, or issuing advice or a warning would not adequately reflect the serious nature of Ms Bennett's conviction and misconduct and would not maintain public confidence in the profession or promote proper professional standards.
101. The panel noted that a sanction in this case was to address misconduct, namely repeated dishonesty, which demonstrated an attitudinal deficiency. The panel therefore concluded that there were no practical or workable conditions that could adequately address the risk of repetition. The panel took into account that Ms Bennett had repeatedly, and over a period of more than two years, breached the fundamental tenet of the social work profession of honesty and integrity. Further, in light of the seriousness of the conviction and misconduct, and the lack of adequate insight, the panel was satisfied that conditions would not be sufficient to protect the public or to maintain public confidence or promote proper professional standards.
102. The panel then considered whether a suspension order was appropriate and proportionate, or whether the overarching objective could only be achieved by the imposition of removal from the social work register.
103. The panel reminded itself of the clear judgment from Williams J that a suspension in itself would not be wrong, provided that it is adequately reasoned. Similarly, Social Work England had conceded that removal from the register was not inevitable.
104. The panel also reminded itself of the relevant caselaw, as conveyed by the legal adviser and within Williams J's judgment.

105. In Ms Bennett's case, her dishonesty was persistent. As such, the caselaw provides that erasure is likely to be appropriate, even where the dishonesty did not occur in a professional setting. The panel reminded itself of the significant aggravating features, as outlined above.
106. Nevertheless, the caselaw, as accepted by Social Work England and specified by Williams J, is that removal is not inevitable. The panel has considered the particular circumstances, in line with the judgment of *Igboaka v GMC* [2016] EWHC 2728 (Admin), as summarised within paragraph 5 of the legal adviser's advice.
107. The circumstances in this case are particularly egregious for the reasons outlined above. Whilst the dishonest behaviour presents as out of character when considered against Ms Bennett's lengthy unblemished career and positive testimonials, the panel found that her actions demonstrate a propensity towards dishonesty. Her actions were certainly not isolated in their duration, given that they spanned over two years and involved dishonesty towards various agencies. Instead of demonstrating compelling evidence of insight and remorse, Ms Bennett instead demonstrated limited insight and focused on the negative effects upon her personally, rather than Child A, the social work profession or public confidence in the profession.
108. As outlined above, members of the public and profession would be appalled by her behaviour and the affects it has had on Child A. The panel was satisfied that allowing Ms Bennett to return to practise would significantly undermine public confidence in the profession and would not uphold proper professional standards.
109. The panel was conscious that there was no need for exceptional circumstances to be identified in order to impose a sanction other than removal, but nevertheless the circumstances of the case, as outlined above, are clearly such that removal is the only appropriate sanction to maintain public confidence in the profession and proper professional standards. The panel was satisfied that suspension, itself a significant and serious sanction, would not be sufficient in all of the circumstances to satisfy the overarching objective.
110. Williams J had herself analysed the authorities and held that sanction was not inevitable. At paragraph 83, she stated:

"If the Committee did conclude that Ms Bennett's dishonesty arose in relation to a specific set of circumstances that were very unlikely to be repeated and these events did not significantly impact on her practice as a social worker and there was sufficient reassurance evident in terms of progress on her part towards insight and remediation then this may have been a tenable conclusion."

111. Whilst the panel accepted the submissions from Mr Phillips QC as to the unlikelihood of a repeat of the specific circumstances, the panel nevertheless concluded that there remains a risk of repetition of dishonest behaviour. The panel concluded that Ms Bennett's actions, whilst outside of work, could not be divorced from her social work practice and that she had breached a fundamental tenet of social work practice. Again, the panel noted the absence of evidence of adequate insight or remediation.

112. The panel has also considered the Sanctions Guidance. It found paragraphs 106 and 109 to be particularly relevant:

“106. Social workers are routinely trusted with access to people’s homes, and highly sensitive and confidential information. They are also routinely trusted to manage budgets including scarce public resources. Any individual dishonesty is likely to threaten public confidence in the proper discharge of these responsibilities by all social workers.”

...

“109. Evidence of professional competence cannot mitigate serious or persistent dishonesty. Such conduct is highly damaging to public trust in social workers and is therefore usually likely to warrant suspension or removal from the register.”

113. In all of the circumstances, the panel also considered paragraph 97 to be relevant:

“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.”

114. The panel concluded that any order other than a removal order would not maintain public confidence or proper professional standards in light of the many aggravating features, including:

- i. The persistence and nature of the dishonesty;
- ii. The lack of evidence of adequate insight or remediation; and
- iii. The consequences to Child A.

115. Whilst Ms Bennett is said to be an otherwise good social worker with skills and abilities that would be of benefit to her local community, this was far outweighed by the circumstances of her dishonesty and the other identified aggravating features.

116. The panel noted the passage of time since the dishonest behaviour, but it rejected Mr Phillips QC’s submission that sanction would be wholly inappropriate and instead concluded that, in all of the circumstances, it was the only appropriate sanction to maintain public confidence in the profession and proper professional standards.

Summary of Submissions - Interim Order:

117. Ms Sharpe argued that an interim suspension order should be imposed to cover the 28-day appeal period and the period of any appeal. She argued that it was necessary to protect the public, to maintain public confidence and promote proper professional standards.

118. Mr Phillips QC confirmed that he had no objection to the necessity of an interim suspension order.

Determination and Reasons - Interim Order:

119. The panel considered that it would be wholly incompatible with its earlier findings to conclude that an interim suspension order was not necessary to protect the wider public interest.

120. Accordingly, the panel concluded that an interim suspension order should be imposed on public interest grounds. It determined that it was appropriate that the interim suspension order be for a period of 18 months in case Ms Bennett seeks to appeal. However, when the 28-day appeal period expires, the interim suspension order will come to an end unless there has been an application to appeal.

121. That concluded the case.

Right of Appeal

122. 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.

123. 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.

124. 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.

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