

Social Worker: Caroline Kathleen Shaw

Registration Number: SW86322

Fitness to Practise

Final Order Review Meeting:

Meeting Venue: Remote hearing

Date of meeting: Monday 12 September 2022

Final Order being reviewed:

Suspension Order – 9 months (expiring 26 October 2022)

Hearing Outcome:

Removal Order (to take effect upon expiry of current  
Suspension Order order on 26 October 2022)

## Introduction and attendees

1. This is the second review of an order originally imposed following a Final Hearing which took place on 08-12 March 2021. On 12 March 2021 the panel of adjudicators imposed a conditions of practice order for a period of 24 months. This order was subject to an early review on 27 January 2022, when the original order was replaced with a suspension order for 9 months. It is the latter order which is now subject to review in accordance with Part 5, Schedule 2 paragraph 15 of the Social Workers Regulations 2018 (“the Regulations”).
2. Ms Shaw did not attend and was not represented.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

| Adjudicators     | Role                      |
|------------------|---------------------------|
| Andrew Skelton   | Chair                     |
| Rosemary Chapman | Social Worker Adjudicator |

| Hearings Team/Legal Adviser | Role                     |
|-----------------------------|--------------------------|
| Kathryn Tinsley             | Hearings Officer         |
| Wallis Crump                | Hearings Support Officer |
| Gemma Gillet                | Legal Adviser            |

## Service of Notice:

4. The panel of adjudicators (hereafter the panel) had careful regard to the documents contained in the substantive order review hearing service bundle as follows:
  - A copy of the notice of substantive order review hearing dated 12 August 2022 and addressed to Ms Shaw at her address and email address, as they appear on the Social Work England Register;
  - An extract from the Social Work England Register detailing Ms Shaw’s registered address and email address;
  - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 12 August 2022 the writer sent by special next day delivery to Ms Shaw at the address referred to above: Notice of Hearing and related documents;

- A copy of the envelope with a note stating that the addressee had “gone away, 16/8 11.45am”;
  - A copy of the Royal Mail Track and Trace Document indicating that the documents were “delivered back to sender” at 09.33am on 17 August 2022;
  - A copy of an email to Ms Shaw dated 23 August 2022 asking if she would like the returned documents resent.
5. The panel accepted the advice of the legal adviser in relation to service of notice and, having regard to the rules and the information before it, was satisfied that notice of this hearing had been properly served.

### Proceeding in absence:

6. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the case of *General Medical Council v Adeogba [2016] EWCA Civ 162 etc.* The panel considered that all reasonable effort had been made to serve Ms Shaw with notice of the hearing in accordance with the rules. The panel noted that Ms Shaw had not engaged since limited communication sent in relation to the previous early review hearing, when she had indicated that she was content for the hearing to proceed in her absence and wanted to be removed from the professional register. Although there was no communication in relation to this hearing, the panel found that there was no reason to believe an adjournment would result in Ms Shaw’s attendance. The panel therefore determined that Ms Shaw had voluntarily absented herself from proceedings.
7. Having weighed the interests of Ms Shaw 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 Shaw’s absence.
8. The notice of final order review hearing informed the social worker that in line with the current government guidance concerning the COVID-19 virus (Coronavirus) pandemic, the review would take place electronically. The notice stated:
- “If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 26 August 2022. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and the adjudicators may, under Rule 16 of the Fitness to Practise Rules, decide to deal with the review as a meeting. If the adjudicators do hold a meeting, they will be provided with a copy of this letter setting out Social Work England’s submissions and a copy of any written submissions you provide.”*
9. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

### Review of the current order:

10. This final order review hearing falls under Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules.
11. The panel accepted the legal advice from the legal adviser and undertook a review of the information before it and was mindful of the guidance from Social Work England and in *CHRE v NMC and Grant* [2011] EWHC 927 (admin). The panel was mindful that if there is finding of current impairment that it must have regard to the Sanctions Guidance and apply the least restrictive sanction that is appropriate in all the circumstances and serves to protect the public.

The current order is due to expire on 26 October 2022.

### The allegations found proved which resulted in the imposition of the final order were as follows:

*"Whilst employed at Nottinghamshire County Council and registered with the Health and Care Professions Council as a Social Worker you:*

*1. Used the 'Framework' or 'Mosaic' system to look up the private records of Service User 1 on:*

*a. 9 March 2017;*

*b. 18 March 2017;*

*c. 21 March 2017.*

*2. On or around 11 May 2017, when asked by Colleague A, whether you had accessed the records of Service User 1, you told her you had not.*

*3. Your conduct in paragraph 2 was dishonest, in that your answer was untruthful."*

### The final hearing panel on 08-12 March 2021

12. The panel at the final hearing determined that there had been no sinister motive behind Ms Shaw's actions but that the misconduct was serious and risked harm not only to the service user but to all service users through her lack of professional judgement. They found that Ms Shaw's fitness to practise was impaired by her having breached fundamental principles of confidentiality and honesty. Her actions acted to undermine public confidence in the profession and could have impacted adversely on the trust between social workers and service users when dealing with sensitive information.
13. The panel considered sanctions and decided to impose a 24 month conditions of practice order, and stated;

*"81...The Panel took the view that Ms Shaw's deficiencies are capable of being remedied and was satisfied that appropriate workable conditions could be formulated. The panel took the view that a conditions of practice order would, in the circumstances of the*

*present case, be sufficient to maintain public confidence in social workers and to maintain proper professional standards.”*

The previous final order review panel on 27 January 2022 determined the following with regard to impairment:

14. A review was called early as Ms Shaw had not complied with the conditions of practice order.

*“17. This review has been called early as Ms Shaw had not complied with the Conditions of Practice Order as she has not provided the reflection on the crucial issue of dishonesty required by condition 17. The panel noted that Ms Shaw has not provided the required reflective statement and therefore has not demonstrated developing insight and there is little evidence of remediation. Ms Shaw had shown some remorse at the final hearing but has not complied with the conditions imposed.*

*18. The risks identified by that panel at the final hearing remain. There is no evidence of reflection and Ms Shaw has not taken the opportunity that she was provided with to demonstrate her developing insight and remediation. The panel took account of the difficult personal circumstances faced by Ms Shaw as set out in her email of 20 January 2022. However, the panel noted that she was given six months to provide the reflective piece which it considered to be sufficient and proportionate, and she has not done so. Ms Shaw has not attended this review and, further, she has asked to be removed from the register.*

*19. In these circumstances the panel concluded that there has been no progress since the final panel and that Ms Shaw’s fitness to practice remains currently impaired. “*

The previous final order review panel on 22 January 2022 determined the following with regard to sanction:

15. The review panel in considering sanction stated:

*“21. The panel considered that taking no action, Advice and a Warning were not appropriate given the seriousness of the findings, including a finding of dishonesty.*

*22. The panel considered conditions of practice. The panel decided, given the failure to comply with the current conditions imposed, and Ms Shaw’s request to be removed from the register, that it was not realistic or appropriate to impose further conditions of practice. There was a finding of dishonesty and Ms Shaw has failed to comply with the conditions of practice imposed to deal specifically with that crucial issue. In these circumstances, the panel concluded that it was not possible to formulate workable and realistic conditions of practice that would sufficiently protect the public and serve to uphold proper professional standards.*

*23. The panel next considered a suspension order and concluded in all the circumstances that the appropriate sanction is a suspension order. In the circumstances of this case, the panel considered that a period of nine months suspension would be appropriate and proportionate. That period should provide Ms Shaw with an opportunity to deal with her current personal circumstances and to find the time to reflect on the impact of her behaviour on service users, colleagues and the public. “*

*24. The panel therefore replaced the conditions of practice order with a suspension order for 9 months.”*

### Social Work England submissions:

16. The panel took account of the written submissions of Social Work England set out in the notice of hearing as follows:

*“Social Work England invite the Panel to find that the Social Worker’s fitness to practise remains impaired and to consider directing removal from the register. It is submitted that the Social Worker has shown no signs of engagement with the fitness to practise proceedings since the imposition of the Substantive Suspension Order.*

*Since the last review on 27 January 2022, the Social Worker has not corresponded with Social Work England, who have written to the Social Worker on three separate occasions. The Social Worker has also failed to submit a reflective piece which had been a recommendation of the last panel as a means of demonstrating remediation and insight. As no further communication has been received from the Social Worker, Social Work England submit that the Social Worker’s fitness to practise remains impaired. The initial concerns were serious and included a finding of dishonest conduct which has not been remediated.*

*Prior to the last review, the Social Worker had stated that she wanted to be removed from the social work register, and that she had no intention of returning to social work. Whilst Social Work England acknowledge that a Removal Order is the last resort for a social worker, it is evident that the Social Worker has no intention to engage in the proceedings or to return to social work.”*

### Panel decision and reasons on current impairment:

17. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panels. However, it has exercised its own judgement in relation to the question of current impairment.
18. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and the previous review panel. The panel also took account of the written submissions made on behalf of Social Work England.

19. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.
20. The panel first considered whether Ms Shaw's fitness to practise remains impaired.
21. The panel noted that the original panel found that Ms Shaw had shown *"genuine remorse and whilst the circumstances [had] created a lack of remediation, she [had] shown insight in relation to the data breach. In respect of insight in relation to dishonesty ... Ms Shaw was in the early stages of developing insight ... However, there [had] been no evidence of reflection by Ms Shaw of her understanding as to how dishonesty impacts on service users, the profession and public confidence"*.
22. In imposing a conditions of practice order the original panel took the view that Ms Shaw's deficiencies (including the issue of dishonesty) were capable of being remedied.
23. The panel noted that an early review of the original conditions of practice order had been necessary as Ms Shaw had not complied with the condition 17:  
*"17. You must read Social Work England's 'Professional Standards' (July 2019), and provide a written reflection 6 months after these conditions take effect, focusing on your understanding of how dishonesty impacts on service users, the profession and the public."*
24. In addition, the panel noted that the panel at the early review had indicated that;  
*"25. A future reviewing panel would likely be assisted by Ms Shaw providing a reflective piece demonstrating her insight and remediation, as had been sought by condition 17 previously imposed. A review panel would also be assisted by Ms Shaw attending any review hearing."*
25. The panel noted that there was still no evidence of reflection and Ms Shaw had not taken the second opportunity that she was provided with to demonstrate her developing insight and remediation. Ms Shaw had not attended this review and had asked on previous occasions to be removed from the register.
26. In these circumstances the panel concluded that there had been no progress since the final panel and that Ms Shaw's fitness to practise remains currently impaired.

#### Decision and reasons on sanction:

27. Having found that Ms Shaw's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made along with all the information and accepted the advice of the legal adviser.
28. The panel considered the written submissions made on behalf of Social Work England which invited the panel to consider imposing a removal order. Whilst acknowledging that this is an

order of last resort, Social Work England submitted that it is evident that Ms Shaw has no intention to engage in the proceedings or return to social work. The panel also took into account the Sanctions Guidance published by Social Work England.

29. The panel was mindful that the purpose of any sanction is not to punish Ms Shaw, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Shaw's interests with the public interest and by considering each available sanction in ascending order of severity.

#### No Action, Advice or Warning

30. The panel concluded that, in view of the nature and seriousness of Ms Shaw's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

#### Conditions of Practice Order

31. The panel went on to consider a conditions of practice order. The panel took the view that Ms Shaw's deficiencies are potentially capable of being remedied, but in light of her failure to comply with the previous order and the recommendation from the reviewing panel, there were no workable conditions that could be formulated. The panel noted that when conditions of practice had been previously imposed they had not been sufficient to effect remediation.

#### Suspension Order

32. Having determined that a conditions of practice order would not be appropriate, the panel went on to consider whether the appropriate sanction is a suspension order. The panel noted that the current suspension order had not been sufficient to effect remediation.

#### Removal Order

33. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that the previous orders had been insufficient to mitigate the risk posed by Ms Shaw. They noted that a finding of dishonesty is very serious and is difficult to remediate. Despite this, Ms Shaw had been given two opportunities to provide evidence of reflection but had failed to do so. The panel determined that there was insufficient evidence before them that Ms Shaw had mitigated the risk. Therefore a removal order was the only order sufficient to protect the public, maintain public confidence in the profession and to maintain proper professional standards.

### Right of Appeal:

34. Under paragraph 16 (1) (b) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social Worker may appeal to the High Court against:
- a. 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,
  - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
35. Under regulation 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.
36. 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.
37. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practise Rules 2019.