



Social Worker: Milagros Isabel Sanchez

Registration Number: SW80907

Fitness to Practise:

Final Hearing

Date(s) of hearing: 24 October 2022 – 27 October 2022

Hearing Venue: Social Work England, 1 North Bank, Blonk Street, Sheffield
S3 8JY

Hearing outcome: Removal order

Interim order: Interim suspension order (18 months)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Ms Sanchez did not attend and was not represented.
3. Social Work England was represented by Mr Adrian Harris, as Presenting Officer from Capsticks LLP.
4. The details of the panel of adjudicators (“the panel”) and those involved in the conduct and administration of the hearing are set out below.

Adjudicators	Role
Tim Skelton	Chair
Suzanna Jacoby	Social Worker Adjudicator
Yvonne Walsh	Lay Adjudicator

Tom Stoker	Hearings Officer
Jo Cooper	Hearing Support Officer
Emma Boothroyd	Legal Adviser

Service of Notice:

5. Ms Sanchez did not attend and was not represented. The panel was informed by Mr Harris that notice of this hearing was sent to Ms Sanchez via recorded delivery and first class post to her address on the Social Work England Register (“the Register”) on the 22 September 2022. In addition the notice was also sent to Ms Sanchez’s registered email address. Mr Harris submitted that the notice of this hearing had been duly served.
6. The panel had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 22 September 2022 and addressed to Ms Sanchez at her address as it appears on the Social Work England Register;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 22 September 2022 “Docucentre” at Capsticks sent the Notice of

Hearing by special delivery to Ms Sanchez at her registered address and that a copy of the documents were also sent via email to Ms Sanchez's registered email address;

- A copy of the Royal Mail Track and Trace Document indicating that the documents were returned to sender;
- Email from Ms Sanchez dated 18 October 2022 indicating that she was not in a position to attend the final hearing and requesting a postponement.

7. The panel accepted the advice of the legal adviser in relation to service of notice.
8. Having had regard to Rule 44 of the Fitness to Practise Rules 2019 ("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 Sanchez in accordance with the rules.

Proceeding in the absence of the Social Worker and application to postpone the hearing:

9. The panel heard the submissions of Mr Harris on behalf of Social Work England. Mr Harris submitted that notice of this hearing had been duly served and that Ms Sanchez was aware of the proceedings. Mr Harris submitted that the panel should proceed with the hearing today, in the absence of Ms Sanchez and refuse the application for a postponement.
10. Mr Harris took the panel through the history of the case and submitted that this was the third application for a postponement by Ms Sanchez. The first application had been granted to allow Ms Sanchez time to secure legal representation. The second postponement was granted at the hearing in April 2022 to allow Ms Sanchez further time to prepare her case and because of witness difficulties at this third listing of the hearing, Ms Sanchez was now unable to pay for legal representation. Ms Sanchez also stated that her health would prevent her from engaging fully in this hearing. Mr Harris submitted that the position was unchanged with regard to Ms Sanchez's health as set out at the April hearing and as such there was no guarantee that postponing today's proceedings would secure her attendance.
11. In relation to the postponement application Mr Harris further submitted that Ms Sanchez had not provided sufficient evidence about her health condition. There was no recent medical evidence before the panel in support of her application. Mr Harris pointed out that the requirement for evidence in support of an application to postpone was clearly communicated to Ms Sanchez in a case management decision made by a panel on the 18 October 2022. Ms Sanchez was directed to file any medical evidence in support of her application by 9am on 24 October 2022. No such information had been received and Mr Harris submitted that the panel should not grant a postponement on medical grounds. Mr Harris reminded the panel of the case of *Financial Conduct Authority (FCA) v Avocade Ltd [2020] EWHC 26* which was

authority for the proposition that something other than stress occasioned by the proceedings was required before a postponement on medical grounds should be granted. He also reminded the panel of the guidance on the Social Work England website entitled, "*Postponements and adjournments of fitness to practise hearings.*"

12. Mr Harris submitted that the panel should have regard to the context of these proceedings and the previous applications to postpone. Mr Harris stated that the allegations dated back to 2016 and there were witnesses in attendance to give evidence. Mr Harris submitted that any further delay was likely to have an effect on memories of witnesses and their willingness to continue to participate in the proceedings. Mr Harris submitted that there was a public interest in the expeditious disposal of proceedings in circumstances where there was no realistic timescale of Ms Sanchez being able to participate in any hearing. He therefore invited the panel to proceed in the absence of Ms Sanchez in the interests of justice.
13. 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 the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162 etc*; and Rule 43 of the Rules.
14. The panel considered all of the information before it, together with the submissions made by Mr Harris on behalf of Social Work England. The panel noted that one of the covering emails sent to Ms Sanchez on the 6 October 2022 at 16.33 chasing a response from Ms Sanchez erroneously stated that the hearing was due to commence on the 24 November 2022. That email was followed up on the same day at 16.58 confirming the correct date of the hearing. All other emails and notices sent to Ms Sanchez contained the correct hearing date. This included an email on 14 October 2022 from Capsticks to Ms Sanchez which asked for her to confirm whether she was attending the final hearing listed on 24 October 2022 by 17 October 2022 at the latest. Ms Sanchez replied on the 18 October 2022 and replied to the email that contained the incorrect date. Ms Sanchez states she was not in a position to attend the hearing on "24 November 2022".
15. The panel noted that Ms Sanchez had been sent notice of today's hearing on a number of occasions. It reminded itself that the required notice of hearing documents had been correct and properly served according to the rules. Although there had been an error in one email on 6 October 2022, this was quickly corrected. The panel noted that thereafter in subsequent emails Ms Sanchez was advised of the correct date. The panel noted that the case management meeting determination of the 18 October 2022 that was sent to Ms Sanchez clearly stated that the hearing would proceed as an in-person hearing commencing on 24 October 2022. In all the circumstances the panel was satisfied that Ms Sanchez was aware of today's hearing.
16. The panel first considered Ms Sanchez's application for a postponement. The panel considered Ms Sanchez's representations with care. The panel noted that it had no medical evidence upon which to conclude that Ms Sanchez was too unwell to

participate in a hearing. The panel had no information about any likely timescale for recovery or whether any reasonable adjustments would allow Ms Sanchez to participate. The panel accepted that proceedings were likely to be stressful, but it took into account the advice and guidance that something more than stress occasioned by the proceedings was required to justify a postponement. The panel considered that any stress would likely recur at any postponed hearing and therefore any delay would serve no useful purpose.

17. The panel took into account Ms Sanchez's difficulties with regard to her legal representation. The panel noted that following the postponement of the hearing in April there had been no further evidence or information filed on behalf of Ms Sanchez by her barrister. It appeared to the panel that even when Ms Sanchez was represented there had been no progress in the preparation of her case. The panel took into account that in her email dated Tuesday 18 October, Ms Sanchez wanted a postponement to "raise more money to get legal representation." and that she was not currently working and couldn't afford to pay for her representation. The panel did not consider that this was a situation that would resolve itself within a reasonable timescale. Ms Sanchez has been aware of these proceedings for a considerable period and the panel considered that she should have taken steps to prepare her case before now. The panel considered that Ms Sanchez could attend the hearing and present the case herself and it was not a good reason to postpone the hearing because she could no longer afford legal representation. For these reasons the panel decided to refuse the application for a postponement.
18. The panel went on to consider whether there were any other factors that would make it unfair to proceed in the absence of Ms Sanchez. The panel considered the legal advice and the factors it was required to consider as set out in the guidance note and the case law. The panel noted that there would be some disadvantage to Ms Sanchez if she were not here to present her case; however this was outweighed by the need to deal with the proceedings expeditiously in order to protect the public. Further, the panel could test the evidence, with the assistance of the Legal Adviser to ensure that Ms Sanchez's case was explored. The panel also had the benefit of some written representations from Ms Sanchez's previously instructed barrister.
19. The panel noted that the witnesses would be inconvenienced if the matter did not proceed today and that their memories and future participation could be adversely impacted by any further delay. The panel had no reason to believe that a postponement would result in Ms Sanchez's attendance. The panel determined that Ms Sanchez had in effect voluntarily absented herself from these proceedings. Having weighed the interests of Ms Sanchez with 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 Sanchez's absence.

Allegation – as amended.

20. Ms Sanchez faced the following Allegation:

Whilst registered with the Health and Care Professions Council as a Social Worker and during the course of your employment with London Borough of Sutton, you:

1. Recorded a LAC visit dated 20 January 2016 claiming to have seen Service User 1 at his placement when you had not done so.
2. Completed a LAC Visit Recording Template in respect of a visit to Service User 1 that did not go ahead, when by doing so you asserted that the statutory visit had been completed on 11 February 2016.
3. Claimed in a LAC review report that you attempted to see Service User 1 following his PEP meeting on 4 March 2016, when you had not done so.
4. Claimed in a LAC Visit Recording Template that you had seen Service User 1 following his PEP meeting on 4 March 2016 when you had not done so.
5. The matters described at particulars 1 to 4 were dishonest.
6. The matters described in particular 1 to 5 constitute the statutory ground of misconduct.
7. By reason of your misconduct, your fitness to practise is impaired.

Preliminary matters

21. At the outset of the hearing Mr Harris applied for the particulars of the allegation to be amended. The original allegation is set out below,

Whilst registered with the Health and Care Professions Council as a Social Worker and during the course of your employment with London Borough of Sutton, you:

1. Recorded a LAC visit on Frameworki dated 20 January 2016 claiming to have seen Service User 1 at his placement when you had not done so.
2. Claimed in a LAC Review Report that you had arranged to see Service User 1 on 11 February 2016, but were informed by the placement prior to the visit that he was not there.
3. Claimed in a LAC review report that you attempted to see Service User 1 following his PEP meeting on 4 March 2016
4. The matters described at particulars 1 to 3 were dishonest.
5. The matters described in particular 1 to 4 constitute the statutory ground of misconduct.
6. By reason of your misconduct, your fitness to practise is impaired.

22. Mr Harris set out that the amended allegation was sent to Ms Sanchez on 22 September 2022. Mr Harris submitted that the “Statement of Case” sent to Ms Sanchez on the 22 September 2022 outlined the reasons for the application to amend. Mr Harris submitted that Ms Sanchez has made no comment on the amended allegation.
23. Mr Harris submitted that the amended allegation better reflected the evidence and made the position clearer to Ms Sanchez. He submitted that it did not widen the scope of the case against her and in all the circumstances the amendment could be made without injustice.
24. The panel accepted the advice of the legal adviser who reminded the panel of the principles of fairness and natural justice. She outlined that although not expressly provided for within the rules the panel did have power to amend procedure and make case management decisions provided it would not be unfair.
25. The panel considered that it was fair to allow the application to amend the particulars of the allegation as they did not alter the case against Ms Sanchez and ensured that the wording of the allegation was clear. The panel considered that there was no prejudice to Ms Sanchez, she had been notified of the proposed amendments and had raised no objections. The panel considered the amendments could be made without injustice.

Background

26. On 19 May 2017, the Health and Care Professions Council (HCPC), which was the regulatory predecessor, received a referral regarding Milagros Sanchez (“the Social Worker”). The referral was made by KP, on behalf of the Social Worker’s then employer, London Borough of Sutton. (“LBS”)
27. ER was the Social Worker’s team manager at the time of the allegation. She worked within the Leaving Care Team, which supports Looked After Children and Care Leavers aged 16-25. Initially ER had joined the team as a Social Worker in 2014 and briefly worked alongside Ms Sanchez but was promoted to assistant manager in 2015 and became Ms Sanchez’s direct line manager when she took over management of the team in December 2016.
28. In April 2016 an Independent Reviewing Officer (“IRO”) raised concerns with ER and other managers at LBS via email following a Looked After Children Review (“LAC review”) she had chaired. Within the email the IRO set out that 2 carers/providers had raised concerns that there had been a lack of contact from Ms Sanchez in relation to Service User 1. The email attached an extract of the concerns and in particular highlighted that the manager of Service User 1’s placement was concerned

that Ms Sanchez had stated she had attended the placement to visit Service User 1 and there was no record of any visit.

29. In January 2017, whilst Ms Sanchez was on sick leave, the manager of the placement, 'B', telephoned ER to raise the same concerns as set out in the IRO's email in April 2016. It was stated by B that Ms Sanchez had claimed to have visited Service User 1 at the placement when no such visit had taken place. Further, that Ms Sanchez had suggested that she had attended Service User 1's PEP meeting on the 4 March 2016 when she had not.
30. ER investigated the allegations and reviewed Service User 1's file. She discovered that there were LAC visit recording templates which suggested that Ms Sanchez had visited Service User 1 on the 20 January 2016 at his placement. ER obtained the daily house logs from the placement which confirmed that Service User 1 was not at the placement at the time of the visit and was in college. There was no record from the placement of Ms Sanchez attending that day.
31. ER noted that Ms Sanchez had also completed a record which documented an attempt to see Service User 1 on the 11 February 2016 but suggested that a successful LAC visit had taken place for audit purposes.
32. Ms Sanchez had also completed a LAC Visit Recording Template dated 4 March 2016 which suggested she had seen Service User 1 on that date at his placement following his PEP review. The document suggested that Ms Sanchez had attempted to see Service User 1 at the PEP meeting but he had already left the college. The minutes of the PEP meeting record that Ms Sanchez sent her apologies to that meeting. It is alleged that there was no meeting with Service User 1 on 4 March 2016 at the placement and Ms Sanchez had dishonestly created documents to cover up the fact that she had not carried out the required statutory visits with Service User 1.

Summary of Evidence – Facts:

33. The panel was provided with the following documentary evidence:
- Statement of Case on behalf of Social Work England dated 12 October 2021.
 - Witness statements and exhibits of:
 - ER - Team Manager at LBS
 - AF - Area Manager for High Level Care and house manager of Service User 1's placement at the time of the allegation.
 - Representations and responses of the Social Worker, Ms Sanchez.

- Service and supplementary bundle containing case management decisions and associated notices. This included the representations made by Ms Sanchez's barrister.
- Reference provided by CN on behalf of Ms Sanchez.
- Email correspondence between Ms Sanchez and Social Work England.

34. The panel heard oral evidence from ER and AF and had regard to closing submissions made by Mr Harris.

Findings and reasons on facts.

35. The panel accepted the advice of the legal adviser, who reminded the panel that it is for Social Work England to prove the facts on the balance of probabilities and no adverse inference should be drawn from the non-attendance of Ms Sanchez. The panel should consider each particular separately and consider whether it is more likely than not that the facts are as alleged. The legal adviser reminded the panel of the approach to be taken in determining dishonesty as set out in the case of *Ivey v Genting Casino [2017] UKSC 67*. The legal adviser advised the panel that dishonesty is a serious allegation and the panel should look for cogent evidence in support. The panel should also consider whether there is an innocent explanation for the conduct, without speculating, which falls short of dishonesty. The panel were reminded that Ms Sanchez has not been cross examined on the assertions she makes in her representations and the panel should bear this in mind when determining what weight to attach to that evidence.

Particular 1 – found proved.

- 1. Recorded a LAC visit dated 20 January 2016 claiming to have seen Service User 1 at his placement when you had not done so.**

36. The panel considered the oral evidence of AF who explained that there was no record of Ms Sanchez attending the placement that day. AF was clear that if Ms Sanchez had visited the placement there would be a record within the "house logs" of her visit. AF stated that the placement is staffed 24 hours a day and all visitors are required to present identification.

37. AF stated that she had met with Ms Sanchez on one or two occasions but she did not recall meeting with her and Service User 1 for a visit on 20 January 2016. AF stated that she was unhappy because Ms Sanchez was not visiting Service User 1 and that Service User 1 was becoming frustrated.

38. AF was asked to read the recording of the alleged meeting on 20 January 2016 and she stated that she would not have provided this level of detail in a meeting with Ms Sanchez. AF stated that this information was contained within monthly reports that were sent to Ms Sanchez. AF had no recollection of any telephone call with Ms Sanchez on 20 January either and stated that she would have made a record in Service User 1's personal log if she had done. The panel considered that AF's evidence was clear and credible and supported by the house logs.
39. Ms Sanchez stated in her representations that she met with Service User 1 at a third party address on 20 January 2016 and spoke with AF on the telephone on the same date.
40. The panel rejected this explanation and considered it was not credible. The panel noted that Service User 1 had very limited knowledge of English and had difficulty communicating. In March 2016 Service User 1's LAC review was postponed to enable an interpreter to attend. It was recorded in the report of the LAC review that Service User 1 had been unable to understand what had happened at his PEP meeting as there was no interpreter. It therefore appeared to the panel that Ms Sanchez would not have been able to have any meaningful interaction with Service User 1 to enable her to make arrangements to see him at an alternative address or to carry out an effective visit away from the placement.
41. The panel considered the note of the LAC visit. It did not record that the visit took place away from the placement. The panel accepted the evidence of ER that there is an expectation that LAC visits should take place at the placement and that if they took place at an alternative location then the record should make that clear.
42. In addition, the record stated, *"Met with the House Manager AF to get an update"*. The panel considered that this was clear and unambiguous and would not have been written if there was a telephone call. The panel also noted that Service User 1's 2015 medical and other appointments listed in the record were historical and were more likely to have been provided on an earlier occasion.
43. Further, in Ms Sanchez's report for the LAC review dated 16 March 2016 she stated that she had seen Service User 1 on the 20 January 2016 but provided no commentary in the box to indicate the circumstances of this visit.
44. The panel concluded that it was more likely, taking account of the house logs and the evidence of AF, that there was no meeting between Ms Sanchez and Service User 1 on the 20 January 2016, in any location, and that the template clearly recorded that a meeting had taken place at the placement.

Particular 2 – Found not proved.

- 2. Claimed in a LAC Review Report that you had arranged to see Service User 1 on 11 February 2016, but were informed by the placement prior to the visit that he was not there.**

45. ER explained to the panel that the LAC visit recording templates were linked to the data system at LBS to ensure that visits were conducted within statutory timescales. The fact that Ms Sanchez uploaded such a template was suggestive that a visit had been carried out and therefore would not trigger any alerts or performance management issues. If a visit had not taken place ER suggested that this should have been recorded elsewhere in a casenote. ER accepted in her oral evidence that this might not be something that Ms Sanchez was fully aware of as a Social Worker rather than a manager.
46. The panel noted that although the boxes on the review form were ticked to indicate that Service User 1 was seen, the narrative was very clear that Ms Sanchez had not been able to arrange a visit. The form stated, *“LAC Visit was booked for today. However, when I called the placement to check that Service User 1 was at the placement I was informed that he was not there, asked if they could please inform him that I would visit with him at his PEP meeting on the 4/03.16.”*
47. The panel considered the narrative on the form was clear. There was no attempt to suggest that a visit had been completed or that Service User 1 had been seen. The document was an accurate record that there was no contact between the Social Worker and Service User 1. The panel did not consider that just because the boxes had been ticked that the child had been seen that this was sufficient to displace the information contained in the narrative. The box containing the narrative is entitled *“If not seen, reason for Child Not Seen.”*. The panel considered that the form provided clarity regarding the visit and there was no credible evidence that Ms Sanchez was attempting to assert that a visit had taken place on the 11 February 2016.

Particular 3 – Found proved.

- 3. Claimed in a LAC review report that you attempted to see Service User 1 following his PEP meeting on 4 March 2016**

48. Ms Sanchez produced a report for Service User 1’s LAC review dated 16 March 2016. Within that report Ms Sanchez stated the following, *“Meeting at SDT to undertake a*

PEP and complete LAC visit, unfortunately Young Person left before he was seen by his Social Worker."

49. AF stated that she became concerned when this was stated within the LAC review as she subsequently discovered that Ms Sanchez did not attend the PEP meeting and sent her apologies. AF could not recall if she herself was at the PEP meeting but accepted that she might not have been given that her name was not recorded on the minutes. AF confirmed that the PEP meeting took place at the college and away from the placement.
50. ER did not check Ms Sanchez's diary or mobile records or emails with regard to this date so was unable to assist the panel about Ms Sanchez's attendance.
51. Ms Sanchez stated in her written submissions that she had attended late and the minutes did not record this.
52. The panel considered that it was more likely than not that Ms Sanchez did not attend the PEP meeting on 4 March 2016. If Ms Sanchez had been late then the panel considered that it was more likely that the meeting minutes would have recorded her attendance rather than stating that she had provided her apologies.
53. The panel considered that there was no credible evidence that Ms Sanchez had attempted to see Service User 1 on the 4 March 2016 or that he had left the PEP meeting before she had been able to meet with him. In these circumstances the panel considered that the information within the LAC review was incorrect and Ms Sanchez had not attempted to meet Service User 1 on that date.

Particular 4 – Found Proved

4. Claimed in a LAC Visit Recording Template that you had seen Service User 1 following his PEP meeting on 4 March 2016 when you had not done so.

54. The panel noted that Ms Sanchez had completed a LAC visit template form dated 4 March 2016. This suggests that Ms Sanchez met with Service User 1 at the placement at 10:15am. Ms Sanchez has written, *"It was Service User 1's LAC review today and LAC visit."* However, the body of the note goes on to state that Ms Sanchez had attempted to visit Service User 1 at his PEP but he had left. It seemed unlikely to the panel that Ms Sanchez missed Service User 1 at the college and then had a successful visit the same morning at the placement. In particular the panel noted that the Social Worker alleged that she met Service User 1 for the LAC visit at 10:15am after the PEP meeting, which was in a different location. The panel

considered that the likelihood of that being the morning's sequence of events was improbable.

55. The record of 4 March 2016 made by Ms Sanchez goes on to detail information that had not happened by the 4 March 2016, such as the decision to postpone Service User 1's LAC review for an interpreter.
56. This is supported by the report for the LAC review written by Ms Sanchez dated 16 March 2016 which clearly states that she did not see Service User 1 on 4 March 2016.
57. The panel considered that as a matter of fact the record of 4 March 2016 was not a record of a visit that took place on that day between Ms Sanchez and Service User 1.

Particular 5 - Found proved in part in relation to Particulars 1 and 3.

5. The matters described at particulars 1 to 4 were dishonest.

58. The panel considered this particular with care. It had regard to the approach as set out in the case of Ivey referred to by the Legal Adviser. It took into account that Ms Sanchez was of previous good character and had regard to the evidence as a whole when looking at dishonesty.
59. When looking at the LAC recording dated 20 January 2016 the panel were satisfied that Ms Sanchez had not had a visit with Service User 1 on that date. The panel considered that as an experienced Social Worker Ms Sanchez would have been aware of the importance of making accurate recordings of a visit. The panel considered that there was no evidence that Ms Sanchez was mistaken about the date and that she had sought to create a record of a visit that had not taken place. The panel considered that Ms Sanchez was attempting to suggest that she had carried out her responsibilities to visit Service User 1 when she had not done so. The panel concluded that Ms Sanchez would have known that this was dishonest and that it would be considered to be dishonest by the standards of ordinary decent people.
60. The panel adopted the same reasons for its finding in relation to particular 3. The panel was satisfied that Ms Sanchez had not made any attempt to see Service User 1 following his PEP meeting as she had sent apologies in advance of the meeting and there was no evidence she had attended his college on that date. In her report to the LAC review dated 16 March 2016 she sought to suggest that she had tried to see Service User 1 in order to convey to the LAC review participants that she had been discharging her responsibilities. The panel considered that this was an attempt to

cover up the fact that she had not visited Service User 1 for some time. The panel considered that Ms Sanchez would have been aware that this was dishonest, and that ordinary decent people would consider such conduct dishonest.

61. In relation to Particular 4 the panel considered that the LAC review template dated 4 March 2016 was more likely to have been an error relating to the date on the form rather than an attempt to mislead people into thinking a visit had occurred on that date. This is because the panel noted that in the LAC review report Ms Sanchez was clear that she had not seen Service User 1 on the 4 March 2016; only that she had attempted to see him.
62. The LAC visit recording template of 4 March 2016 states that the visit is being carried out on the day of the LAC review and records the IRO as present. The form also states that the LAC review is to take place in two parts because of the lack of an interpreter, which would not have been known to Ms Sanchez on the 4 March 2016. The panel considered that it is more likely that the template details the visit that took place on the day of the LAC review, namely 17 March 2016 and is incorrectly dated. The template also sets out that Ms Sanchez was unable to see Service User 1 on the 4 March following his PEP review and so in the view of the panel it was not credible that this recording was seeking to suggest that this visit took place on the 4 March 2016.
63. The panel considered that it was more likely that Ms Sanchez made an error regarding the date, as she had planned to see Service User 1 on 4 March 2016 and had not done so. In the view of the panel the narrative within the template contained information that suggested that the visit took place on the date of the LAC review and did not seek to set out that Ms Sanchez had seen Service User 1 after his PEP on 4 March 2016. In these circumstances the panel considered that it was more likely that Ms Sanchez was muddled about the date and was not dishonest and this would not be considered to be dishonest by the standard of ordinary decent people.

Finding and reasons on grounds

Summary of Submissions – Grounds and Impairment:

64. Mr Harris submitted that the facts found proved amount to misconduct and that Ms Sanchez's fitness to practise is currently impaired. He directed the panel to various breaches of the HCPC Standards of Conduct, Performance and Ethics (2016), in particular Paragraphs 9.1 and 10.1.
65. Mr Harris submitted that the misconduct was serious as Service User 1 was vulnerable with limited knowledge of English. Mr Harris submitted that Ms Sanchez's actions amounted to a deliberate course of dishonest conduct which left Service User 1 at clear risk of harm. He submitted that Ms Sanchez had not engaged with

proceedings and she had failed to demonstrate any remorse, insight or remediation. In any event, dishonest conduct is difficult to remediate. Mr Harris concluded that a finding of impaired fitness to practise was necessary to protect the public and wider public interest.

Findings and Reasons - Grounds and Impairment:

66. The panel accepted the advice of the legal adviser that it should keep at the forefront of its consideration the three limbs of the overarching objective. These are to protect the public, and to promote and maintain public confidence in the social work profession and promote and maintain proper professional standards for social worker's in England. It must consider whether Ms Sanchez's fitness to practise is currently impaired by reason of misconduct. To do so, it must first consider whether the proved allegations amounted to misconduct, whether that misconduct was serious and, if so, whether that leads to a finding of current impairment. Neither party bears the burden of proof. When considering impairment, the panel should consider whether the misconduct is remediable and, if so, whether it has been remedied and what insight has been demonstrated by Ms Sanchez. The panel must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

67. The panel noted that "*misconduct*" in regulatory proceedings was defined by Lord Clyde in the case of *Roylance v General Medical Council [2001] 1 AC 311* as follows:

"...._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 practitioner in the particular circumstances."

68. The panel was satisfied that the conduct found proved breached the following HCPC Standards of Conduct, Performance and Ethics 2016:

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

10.1 You must keep full, clear and accurate records for everyone you care for, treat or provide other services to."

69. The panel was therefore satisfied that the proved allegations each constituted misconduct, as they amounted to significant failures to adhere to the standards expected of someone in Ms Sanchez's position.

70. Further, the panel was satisfied that the misconduct was serious as Ms Sanchez had breached fundamental tenets of social work in relation to safeguarding vulnerable young people and by not acting with probity and integrity. By failing to visit Service User 1, and then falsifying statutory records to demonstrate that she had carried out, or attempted such visits, she failed to adequately safeguard Service User 1 or progress his care plan. Others taking over conduct of the case would be unaware of the true nature of Service User 1's needs or actions required. This was all the more serious and concerning given the circumstances of Service User 1 who was reliant on Ms Sanchez to get the help he needed. Ms Sanchez had falsified a significant level of detail within the records which would suggest to others that Service User 1's needs had been properly assessed on those dates.
71. Additionally, dishonesty is always to be considered as serious and it is aggravated in this case by the specific circumstances and vulnerability of Service User 1 and the fact that the dishonesty was repeated.
72. Further, the panel was satisfied that members of the public and profession would be appalled at Ms Sanchez's behaviour. The panel noted that the manager of Service User 1's placement was very concerned that Service User 1 was being denied the help he needed and that he was being portrayed as untruthful when he said he was unable to see his social worker. Actions such as those found, breach trust between service users and the social work profession, which in turn negatively impacts upon service users' engagement with social workers and therefore hinders the assessment of need and risk.
73. The panel considered that Ms Sanchez's behaviour would be difficult, albeit not impossible, to remediate, as a lack of integrity was a common thread throughout the proved misconduct. However, the panel considered that there was no evidence of either remediation or insight.
74. Ms Sanchez had not meaningfully engaged with these proceedings, despite having significant opportunity and time to do so. Ms Sanchez had denied the allegations and stated that there was a toxic and bullying culture. Furthermore, she stated that her representative had commented that "this is simply a witch hunt". Ms Sanchez has provided no other explanation or mitigation for her actions and has not submitted any evidence of having reflected on the impact of her conduct on Service User 1 or public confidence in the social work profession.
75. The panel had regard to the lack of evidence of any insight and remediation. It also noted that this was a sustained course of conduct over a period of three months. The panel noted that Ms Sanchez was an experienced Social Worker with no previous regulatory concerns. The panel noted that Ms Sanchez has not been

working as a Social Worker for some time and that no recent evidence has been provided to show her current work performance. Having taken all of those matters into account, the panel was satisfied that there was a significant risk of repetition of the proved misconduct.

76. The panel found that Ms Sanchez's practice currently poses a risk to the public. Failure to adequately carry out required visits and then dishonestly completing records to suggest that those visits have taken place has the consequence of vulnerable people not being protected. A failure to act with honesty and integrity in case recording and assessments risks harm to the public as it can result in false information being relied upon by other professionals and agencies and a deterioration of trust between social workers and service users.
77. Further, the panel considered that members of the public and the social work profession would be appalled by Ms Sanchez's actions. The public requires social workers to carry out their statutory responsibilities and act with probity and integrity. The panel therefore found that public confidence in the social work profession would be undermined if there was no finding of impairment in these circumstances. Further, given that the serious misconduct related to a breach of fundamental tenets of social work, the panel was satisfied that professional standards would not be promoted and maintained by a finding that her fitness to practise is not currently impaired, particularly in light of her failure to fully engage with the regulatory proceedings.
78. The panel therefore concluded that as a consequence of Ms Sanchez's serious misconduct, a finding of impaired fitness to practise is necessary to protect the public and to promote and maintain public confidence in the social work profession and proper professional standards.

Summary of Submissions – Sanction:

79. Mr Harris, on behalf of Social Work England submitted that in light of the nature and extent of the misconduct, the appropriate sanction was one of suspension from the social work register for a significant period. He argued that there was no evidence of remediation before the panel and that Ms Sanchez had failed to demonstrate any insight into the harm that could have been caused to Service User 1 and to the reputation of the social work profession. He submitted that public trust would be diminished as a consequence of Ms Sanchez's actions, particularly her dishonesty and subsequent lack of remorse. He drew the panel's attention to the para 106 of

the sanctions guidance and submitted that any sanction at the lower end would be inappropriate and would be insufficient to protect the public interest.

80. Mr Harris submitted that suspension was the only appropriate and proportionate sanction in light of the circumstances of the proved misconduct which involved repeated dishonesty, concerning a vulnerable service user over a number of months. He argued that suspension would be the only sanction that would maintain public confidence in the profession as no workable conditions could be formulated.

Decision on sanction

81. The panel accepted the advice of the legal adviser who reminded it of the three limbs of the overarching objective when considering what, if any, sanction was appropriate. The panel was reminded to apply the principle of proportionality, balancing Ms Sanchez's interests with the public interest. The primary purpose of a sanction is to protect the public and not to be punitive, although a sanction may have a punitive effect. The panel considered the least restrictive sanction first and then went on to consider the sanctions in ascending order of severity. The panel had regard to the Social Work England sanctions guidance, published in July 2022.
82. The panel reminded itself of its determination in relation to misconduct and impairment and took into account all the evidence it had seen and heard.
83. In relation to aggravating features, the panel noted the consequences for Service User 1. Not only did Ms Sanchez fail to discharge her responsibility to visit Service User 1 regularly but she also failed to progress his care plan and meet his needs because of the lack of contact. Ms Sanchez then sought to suggest that she had carried out her responsibilities and that it was Service User 1 who had not been available for a visit. The misconduct is further aggravated by the fact that Ms Sanchez sought to cover up her failures on more than one occasion by the creation of false records. Ms Sanchez has failed to demonstrate any remorse, insight or remediation.
84. The panel noted that before this incident involving only one Service User, there had been no regulatory concerns with Ms Sanchez's practice. The panel took into account that Ms Reynolds had commented that there was evidence of well written case notes within her files. The panel noted that both before and after the misconduct Ms Sanchez had significant periods of sick leave which may have impacted on her performance. However, the panel had no medical evidence to clarify the nature of the sickness absence and therefore gave little weight to this information and it did not consider it amounted to a mitigating factor. The panel also noted the testimonial submitted by Ms Sanchez written by CN but it considered that it did not assist in providing information about Ms Sanchez's work.
85. The panel considered that taking no action, or issuing advice or a warning, would not adequately reflect the serious nature of Ms Sanchez's misconduct and would not protect the public, maintain public confidence in the profession nor promote proper professional standards.

86. The panel next considered whether a conditions of practice order would be sufficient to protect the public and wider public interest. The panel noted in particular paragraph 85 of the Sanctions Guidance, which states:

“Conditions are most commonly applied in cases of lack of competence or ill health. They’re less likely to be appropriate in cases of character, attitudinal or behavioural failings, or in cases raising wider public interest issues. For example, conditions would almost certainly be insufficient in cases of sexual misconduct, violence, dishonesty, abuses of trust and discrimination involving a protected characteristic.”

87. The panel noted that the misconduct found proved encompassed breaches of fundamental tenets of the social work profession, including probity and integrity. The failure to adequately safeguard Service User 1 had been covered up by Ms Sanchez by way of creating false records. Given that these failures are attitudinal in nature and did not stem from a lack of experience or knowledge, the panel was satisfied that workable conditions could not be formulated which would adequately protect the public. Further, in light of the seriousness of the misconduct found proved, the panel was satisfied that conditions would not be sufficient to promote and maintain public confidence or proper professional standards.

88. The panel therefore considered whether Ms Sanchez should be subject to a suspension order or removal order. The panel again reminded itself that a sanction of removal should only be imposed if suspension would not adequately protect the public or wider public interest. It considered, in particular, paragraphs 93 and 98 of the Sanctions Guidance, which state:

“93. Suspension orders can be imposed for a period of up to three years. Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register....

98. 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.”

89. In relation to the findings of dishonesty, the panel took into account, in particular, paragraphs 107 and 110 of the Sanctions Guidance:

“107 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.

....

110. 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.

90. The panel considered that, whilst a suspension order would protect the public during its operational period, as it would restrict Ms Sanchez from practising in social work, it would not adequately protect the public in the longer term. The proved misconduct took place in 2016 and was referred to the HCPC in 2017 and, during the six year intervening period, Ms Sanchez has failed to demonstrate any remorse, insight or remediation. Ms Sanchez has engaged to a limited extent with these proceedings but has continued to maintain that she visited Service User 1 away from the placement which the panel had determined was untrue. The panel accepted that although very difficult, the conduct was capable of remediation with the development of appropriate and meaningful insight. However, the panel had no confidence based on the evidence it had seen and heard that Ms Sanchez would take the opportunity of further time to reduce the risk to the public arising from her practice and it considered that a period of suspension would serve no useful purpose.
91. Additionally, the panel was satisfied that a suspension order would not promote and maintain public confidence in the social work profession or declare and uphold proper professional standards in light of the aggravating features. It took into account the significant failure to adequately protect a vulnerable service user which occurred over a three-month period and the fact that the dishonesty found proved was designed to cover up those failings. Reasonable and knowledgeable members of the public and social work profession would be shocked and concerned if, in those circumstances, a social worker was not removed from the social work register, especially in light of the social worker failing to demonstrate remorse, insight and remediation.
92. The panel was therefore satisfied that the only proportionate and appropriate sanction was one of removal from the social work register.

Interim order

93. In light of its findings on Sanction, the panel next considered an application by Mr Harris for an Interim Suspension Order to cover the appeal period before the Sanction becomes operative.
94. The panel next considered whether to impose an interim order. It was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings and the imposition of a Removal Order to conclude that an Interim Suspension Order was not necessary for the protection of the public or otherwise in the public interest for the appeal period.

95. Accordingly, the panel concluded that an Interim Suspension Order should be imposed on public protection and public interest grounds. It determined that it is appropriate that the Interim Suspension Order be imposed for a period of 18 months to cover the appeal period. When the appeal period expires this Interim Order will come to an end unless there has been an application to appeal. If there is no appeal the Removal Order shall apply when the appeal period expires.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social Worker may appeal to the High Court against the decision of adjudicators:
 - (i) to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - (ii) not to revoke or vary such an order,
 - (iii) to make a final order.
2. Under paragraph 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the Social Worker is notified of the decision complained of.
3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the Social Worker was informed of the decision or, if the Social Worker appeals within 28 days, when that appeal is exhausted.
4. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to 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.

