

Social Worker: Eulale Brown
Hickling
Registration Number: SW40360
Fitness to Practise
Final Order Review Hearing:

Hearing Venue: Remote hearing

Date of hearing: 11 November 2022

Final Order being reviewed:
Conditions of Practice Order – 24 months

Hearing Outcome:
Removal Order

Introduction and attendees

1. This was the third review of a final order originally imposed by a Conduct and Competence Committee of the Health and Care Professions Council (“HCPC”) on 17 April 2019. The Committee imposed a final order of suspension for 12 months. That order was reviewed by a panel of adjudicators appointed by Social Work England on 28 May 2019 and replaced with an 18 months conditions of practice order. The conditions of practice order was varied and extended by a review panel on 13 November 2020 for a period of 24 months.
2. Ms Brown Hickling attended the review unrepresented.
3. Social Work England was represented by Ms Hartley, instructed by Capsticks LLP.

Adjudicators	Role
Alexander Coleman	Lay Chair
Victoria Chew	Social Work Adjudicator

Hearings Team/Legal Adviser	Role
Hannah Grainger	Hearings Officer
Jo Cooper	Hearing Support Officer
Nathan Moxon	Legal Adviser

Preliminary matters – public / private hearing

4. The panel was satisfied that, pursuant to rule 37 and 38 of the Social Work England Fitness to Practise Rules 2019, parts of the hearing should be held in private.

Review of the current order:

5. The final order review hearing fell under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review was determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England’s Fitness to Practise Rules.

The allegations found proved:

6. The allegations found proved, which resulted in the imposition of a final order, were as follows:

“During the course of your employment at Islington Council Children Services from November 2010 to May 2013 you:

1) In relation to Child A:

a) information was disclosed to you by Person A in relation to Person B's violent past and you did not advise your manager of the information disclosed.

2) In relation to Child B you:

a) did not make and/or record enquiries as to whether Child B was taking medication as part of her psychiatric treatment until February 2012;

b) did not seek approval regarding Child B taking medication as part of her psychiatric treatment;

d) did not maintain detailed or timely case records.

3) In relation to Child D you did not:

a) record all statutory visits;

b) undertake and/or record life story work;

c) make and/or record any adequate enquiries in relation to Child D being reported missing;

d) Maintain detailed and timely case records.

4) In relation to Child E, F and Child G you did not maintain detailed and timely case records.

5) In relation to Child H you did not:

a) record all statutory visits in a timely manner;

b) did not complete and/record the follow up on all actions required from Child/Young Person's Adoption Review dated:

i. 19 December 2011.

6) In relation to Child I you did not:

a) Maintain detailed and timely case records.

7) The matters described in paragraphs 1 to 6 constitute misconduct and/or lack of competence.

8) By reason of that misconduct and/or lack of competence your fitness to practise is impaired."

Findings of the final hearing panel in May 2018:

7. The final hearing panel found that Ms Brown Hickling's failings had *"led to a real risk of harm to the vulnerable children whom she was employed to support"*. It noted her limited insight and assessed there to be *"a present risk of repetition"*. It imposed a suspension order of 12 months.
8. The first review panel, on 28 May 2019, noted that Ms Brown Hickling had shown developing insight and remorse. However, as she had not been able to practise, by virtue of the suspension, the panel noted that she had not had the opportunity to demonstrate adequate remediation. The first review panel assessed a continuing risk of repetition but that the continuation of suspension was not necessary and that that an 18 months conditions of practice order would be sufficient, appropriate and proportionate.
9. The second review panel, on 13 November 2020, noted written submission from Ms Brown Hickling, in which she had outlined that she had been unable to obtain employment as a consequence of the conditions of practice order.
10. The second review panel concluded that Ms Brown Hickling's fitness to practise remained impaired as she had not been able to demonstrate compliance with the conditions and so *"..had been unable to persuade the panel that she had remedied her past misconduct"*. Limited, but developing, insight was assessed. The second review panel concluded that there remained a risk of repetition and that time was needed for her to show developing insight and remediation.
11. The conditions of practise order was extended for a period of 24 months and varied, as follows:
 - "1. You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.*
 - 2. You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter or workplace supervisor referred to in these conditions.*
 - 3. At any time you are providing social work services, which require you to be registered with Social Work England:*

- a. you must agree to the appointment of a reporter nominated by you and approved by Social Work England. The reporter must be on Social Work England's register.*
 - b. You must not start/restart work until these arrangements have been approved by Social Work England.*
 - c. You must allow your reporter and Social Work England to exchange information.*
- 4. You must provide reports from your reporter to Social Work England every 3 months and at least 28 days prior to any review and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.*
- 5. You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.*
- 6. You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.*
- 7. You must inform Social Work England if you apply for social work employment/ self- employment (paid or voluntary) outside England within 7 days of the date of application.*
- 8. You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within 7 days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].*
- 9. At any time you are employed, or providing social work services, which require you to be registered with Social Work England:*
 - a. You must place yourself and remain under the supervision of a workplace supervisor nominated by you and agreed by Social Work England. The workplace supervisor must be on Social Work England's register.*
 - b. You must not start/restart work until these arrangements have been approved by Social Work England.*
- 10. You must provide reports from your workplace supervisor to Social Work England every 3 months and at least 28 days prior to any review, and Social Work England will make these reports available to any reporter referred to in these conditions on request.*

11. You must keep your professional commitments under review and limit your social work practice in accordance with your workplace supervisor's advice.

12. You must work with your workplace supervisor, to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:

a. record keeping, including timeliness and quality

b. communicating appropriate information relating to service users/ your cases to your colleagues/ appropriate professionals

13. You must provide a copy of your personal development plan to Social Work England within 3 months from the date these conditions take effect and an updated copy 28 days prior to any review.

14. You must inform, within 7 days from the date these conditions take effect, the following parties that your registration is subject to the conditions listed at (1) to (13), above:

- a. Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.*
- b. Any locum, agency or out-of-hours service you are registered with or apply to be registered with (at the time of application).*
- c. Any prospective employer (at the time of application).*
- d. Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.*

You must forward written evidence of your compliance with this condition to Social Work England within 14 days from the date these conditions take effect.

15. You must permit Social Work England to disclose the above conditions, (1) to (14), to any person requesting information about your registration status."

Evidence and submissions:

12. By email, dated 21 July 2022, Ms Brown Hickling outlined that she intended to resign from social work. **[PRIVATE]**. She requested to be removed from the register and was informed that this would be contrary to regulation 13 of the Social Work Regulations 2018 on account of her being subject to a conditions of practice order. Ms Brown Hickling responded by stating that "SWE have already destroyed my life in social work and my dreams...".

13. Written submissions of Social Work England were contained within the notice of hearing, dated 25 October 2022:

“Social Work England invites the Panel to consider extending the Conditions of Practice Order for a further period or making a Removal Order. We invite the Panel to review and adopt the reasoning of the previous reviewing Panel as regards the necessity of such an Order.

The Social Worker has indicated that they have not been able to take up a position of employment requiring registration pursuant to the Conditions of Practice currently in place. Therefore, the Social Worker has not been able to demonstrate that she is capable of safe and effective practice under the Conditions of Practice and consequently, the risk of the public previously identified remains.

However, in light of the latest correspondence from the Social Worker in July 2021 that they do not intend to return to social work, the Panel may feel that a Removal Order may be proportionate. The Social Worker has expressed her desire to be removed from the register. It is also important to note that the Social Worker been under a Conditions of Practice Order for a significant time, 42 months.”

14. Ms Hartley, on behalf of Social Work England, submitted that by not obtaining work, Ms Brown Hickling had not demonstrated remediation and so had not shown that her fitness to practise is no longer impaired. She stated that in all of the circumstances the panel may determine that Ms Brown Hickling should be removed from the social work register. She has been subject to a conditions of practice order for a lengthy period of time and has not obtained suitable employment. Alternatively, the panel may wish to extend the conditions.
15. Ms Brown Hickling, in oral submissions, confirmed that she had been unable to obtain employment that would accommodate her conditions. Agencies refused to accept her until the proceedings had completed. She had attended interviews with potential employers but, upon her disclosing the conditions of practice order, she was unsuccessful in obtaining the roles. Employers had indicated that the condition of supervision was inconsistent with Ms Brown Hickling being an experienced social worker. The conditions had prevented her from obtaining employment, which in turn had prevented her from demonstrating remediation.
16. Ms Brown Hickling stated that she qualified as a social worker since the early 1990s and had undertaken practice without conditions and without difficulty. However, failing to obtain work has affected her confidence and self-esteem. She had been denied the opportunity to assist during the Covid pandemic.
17. Ms Brown Hickling accepted that she had made mistakes, which led to the regulatory concerns, but did not accept that she had placed service users at danger to the extent alleged. She argued that she did not have adequate management support at the material time. She accepted that there had been areas of weakness in her practice but that had she been supported with supervision she would not have *“found myself in this position”*. She argued that she should not take *“all the blame”*.

18. Ms Brown Hickling stated that she was “*angry*” about her treatment and had been “*bullied*” and “*discriminated against*”. She said that she had been treated by HCPC and Social Work England as a scapegoat and used to “*set an example that I practised badly*” and “*hung out to dry*”. She added that Social Work England had “*made it as difficult as possible for me to gain employment*”. She stated that she believed that the intention had been to prevent her from obtaining work and that she had been “*railroaded out of the profession*”. She said that as a consequence, she had “*given up*” and “*you have defeated me, just as Social Work England wanted*”.
19. She said that “*Social Work England do not want the likes of me in the profession and would want me to be a cleaner*”.
20. Ms Brown Hickling reminded the panel that she had sought to resign her registration but that this had been refused by Social Work England **[PRIVATE]**.

Decision and reasons on current impairment:

21. 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 review panels. However, it exercised its own judgement in relation to the question of current impairment.
22. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and previous review panels. The panel also took account of the submissions made on behalf of Social Work England.
23. 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.
24. The panel noted that the final hearing panel and review panels found that Ms Brown Hickling had developing insight and had demonstrated insufficient remediation into her misconduct. The panel found that there had been little progress since the previous review. Ms Brown Hickling has not evidenced registered or non-registered work. She has failed to demonstrate that she has remediated the failings that led to the proved regulatory concerns.
25. The panel was grateful to Ms Brown Hickling for her continued engagement with the regulatory proceedings and the fact that she participated in the review and gave detailed and considered submissions. The panel acknowledged that the conditions of practice order will have caused Ms Brown Hickling difficulty in obtaining registered social work employment and that this will have been frustrating for her.
26. However, the panel considered that Ms Brown Hickling’s insight has regressed in that she now focuses on Social Work England having “*destroyed my life*” without adequately

acknowledging why regulatory intervention was necessary to protect the public as a consequence of her misconduct. She sought to pass responsibility for her failings to her management at the time. Further, she challenged the necessity of the conditions of practice order and argued that it had prevented her from obtaining employment. The panel considered that Ms Brown Hickling had failed to appreciate why those conditions were necessary as a consequence of her proved misconduct. She did not accept the level of risk as assessed by the previous panels.

27. The panel noted that many practitioners subject to conditions of practice orders are nevertheless able to obtain registered employment and, in the absence of opportunities, are able to obtain non-registered opportunities. Had she obtained non-registered employment, which would have been available to her, she would then have the opportunity to demonstrate remediation.
28. Ms Brown Hickling has not provided any updated evidence of maintaining her social work skills and knowledge or of seeking relevant non-registered employment or voluntary roles. In summary, there has been no material change since the last review, save for Ms Brown Hickling's assertion that she no longer intends to work in social work and what appears to have been a regression of her development of insight. She has sought to challenge the findings of the previous panels and minimised her culpability.
29. In light of the lack of evidence of remediation, or further development of insight, the panel found that there was a substantial risk of repetition of her failings and that a finding that her fitness to practice is impaired therefore remained necessary to protect the public.
30. Further, in light of the lack of evidence of developing insight and remediation, together with Ms Brown Hickling's comments about the actions of Social Work England, without adequately acknowledging that her failings had led to the regulatory being required to take action to protect the public, the panel concluded that members of the public would be deeply concerned if her fitness to practice was not found to be impaired and that such a finding would undermine public confidence in the profession. Such a finding would similarly fail to uphold professional standards.

Decision and reasons on sanction:

31. Having found Ms Brown Hickling's fitness to practise was currently impaired, the panel then considered what, if any, sanction it should impose in this case.
32. The panel considered the submissions made on behalf of Social Work England and Ms Brown Hickling's. The panel also took into account the Sanctions Guidance published by Social Work England.
33. The panel was mindful that the purpose of any sanction was not to punish Ms Brown Hickling, 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 upholding proper standards of conduct and behaviour.

34. The panel applied the principle of proportionality by weighing Ms Brown Hickling's interests with the public interest and by considering each available sanction in ascending order of severity.

35. The panel had particular regard to the following factors when considering sanction:

- a. Ms Brown Hickling has been subject to a final order restricting her practice for almost 4 ½ years, almost 3 ½ years of which has been by virtue of a conditions of practice order;
- b. Ms Brown Hickling has not obtained suitable registered or non-registered work in the social care sector in that period;
- c. Ms Brown Hickling, whilst making reasonable efforts to obtain registered employment, has failed to show adequate efforts to obtain non-registered employment within the social care sector;
- d. Ms Brown Hickling has not therefore demonstrated remediation through employment;
- e. Ms Brown Hickling has not otherwise demonstrated remediation, for example by virtue of voluntary work or training; and
- f. Ms Brown Hickling's insight has regressed in that she has now sought to dispute the findings of previous panels, minimise her culpability by assigning blame to her managers at the material time; and accused the HCPC and Social Work England of treating her unfairly. In doing so, she has failed to adequately acknowledge the need to protect the public and wider public interest or how her proved misconduct had undermined those fundamental objectives.

No Action

36. The panel concluded that, in view of the nature and seriousness of Ms Brown Hickling's failings, which had 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.

Advice or Warning

37. The panel then considered whether to issue advice or a warning. The panel noted that neither of those sanctions would restrict Ms Brown Hickling's ability to practise and were therefore not appropriate due to the existing risk to public safety. Ms Brown Hickling's failings had the potential to have significantly adverse consequences and therefore some restriction on her practise was required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

38. The panel went on to consider a conditions of practice order. The panel noted that Ms Brown Hickling's has been subject to a conditions of practice order since May 2019; a period of almost 3 ½ years, and has failed to obtain employment as a social worker during that period. In the absence of obtaining a registered role, she has failed obtain non-registered employment within the care sector, which would have allowed her to develop remediation. The panel did not accept that non-registered roles would have been unavailable to her had she sought such employment. There has therefore been inadequate development of insight and remediation.
39. The panel found that suitable conditions can no longer be formulated to adequately protect the public and satisfy the public interest. The panel was satisfied that it was not in the public interest to continue to order conditions, when it was unlikely that they would result in Ms Brown Hickling developing adequate remediation. Further, the panel was concerned about Ms Brown Hickling's compliance with any conditions in light of the evident regression in her insight.

Suspension Order

40. Having determined that a conditions of practice order would not be appropriate, the panel considered whether to impose a further period of suspension. The panel concluded that this would not be appropriate or proportionate in all of the circumstances.
41. Ms Brown Hickling has been subject to a final order for almost 4 ½ years but has failed, in that time, to demonstrate adequate insight and remediation into her actions. Having failed to take the opportunities given by the original panel and review panels, there is little prospect of Ms Brown Hickling's utilising any subsequent opportunities. She has not resiled from her desire to be removed from the social work register since July 2021.
42. In those circumstances, the panel concluded that the imposition of a suspension order would serve no useful purpose. Further, the panel concluded that it would not maintain public confidence in the profession or professional standards to impose a further period of suspension upon a social worker who had failed to utilise the previous periods of suspension and conditions to demonstrate remediation and insight.

Removal Order

43. The panel noted that a removal order was a sanction of last resort where there was no other means of protecting the public or the wider public interest.
44. The panel nevertheless took the view that a removal order was necessary, appropriate and proportionate in this matter in light of the serious nature of Ms Brown Hickling's failings together with the fact that she had failed to demonstrate and evidence adequate insight and remediation.
45. The panel noted that, whilst the public could be protected from harm by restricting Ms Brown Hickling from practising, by way of a suspension order, a further period of

suspension would not serve the wider public interest. The panel found that there was limited prospect of Ms Brown Hickling developing adequate insight or remediation, having failed to do so in the 4 ½ years since she has been subject to final orders restricting her practice. The panel considered that it was contrary to promoting and maintaining public confidence in the social work profession and proper professional standard to continue to restrict her practice without any reasonable likelihood of her taking the opportunity to develop her insight and remediation. In those circumstances, no order other than removal from the register is appropriate.

46. The panel concluded that, in all of the circumstances, an order for removal was the only order that would adequately maintain public confidence in the profession and professional standards.

Right of Appeal:

47. 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.

48. 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.

49. 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.