

Social Worker: Emma M Richards

Registration Number: SW15271

Fitness to Practise:

Final Hearing

Date(s) of hearing: 7-10 November 2022

Hearing Venue: Remote hearing

Hearing outcome: Removal Order

Interim order: Interim Suspension Order for 18 months (10 November 2022 – 10 May 2024)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Ms Richards did not attend and was not represented.
3. Social Work England was represented by Ms Sharmistha Michaels, instructed by Capsticks LLP.

Adjudicators	Role
Lesley White	Chair
Sarah Redmond	Social Worker Adjudicator
Peter Swain	Lay Adjudicator

Natasha Quainoo	Hearings Officer
Camilla Read	Hearing Support Officer
Graeme Dalgleish	Legal Adviser

Service of Notice & Proceeding in Absence:

4. The panel of adjudicators (“the panel”) had regard to the documents contained in the hearing service bundle and heard from Ms Michaels. The panel considered a copy of the notice of hearing dated 5 October 2022 sent to Ms Richards at her email address and an extract from the Social Work England Register detailing her registered email address. The panel accepted the advice of the legal adviser and was satisfied that notice of this hearing had been properly served.
5. The panel heard from Ms Michaels on proceeding in absence. She referred to the appropriate case law and guidance. It accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether to proceed in the absence of Ms Richards. The legal adviser referred it to Rule 43 and to the guidance in *GMC v Adeogba* [2016] EWCA Civ 162. It has found that proper notice of this hearing has been served and there is no application for an adjournment by Ms Richards.
6. The panel noted that Ms Richards has responded by emails on 14 April 2022, 31 May 2022 and 5 October 2022 indicating that she would not be attending the hearing, had moved abroad, was not practising as a Social Worker and did not wish to engage with the final hearing, or be represented. The panel noted that Ms Richards has also completed the hearings forms from Social Work England admitting the allegation in full. The panel found that

there is nothing to suggest that adjourning today's proceedings would secure Ms Richards' attendance on another date.

7. The panel decided that Ms Richards has chosen to voluntarily absent herself and waived her right to attend. She has made her position clear, that she does not want to attend this hearing. She had stated that attending would negatively impact on her well-being, and she had not asked for an adjournment. Having weighed the interests of Ms Richards with those of Social Work England and the public interest in an expeditious disposal of this case, the panel determined that it was fair and appropriate in all the circumstances to proceed in her absence. There are three live witnesses due to attend and there is a public interest in proceeding.

Preliminary matters – Hearsay application

8. The panel heard an application to receive the evidence of Service User A, their partner JP and Service User B as hearsay evidence. The panel noted that Ms Richards had been provided with notice of this application, including the Skeleton Argument and bundle from Social Work England on 5 October 2022, and that she has acknowledged receipt.
9. Ms Michaels summarised the case and the alleged false claims by Ms Richards of having made visits to SU A and SU B, and created a false record of one of those visits, which was not in fact made. She referred to the relevant case law and to the guidance on hearsay in *Thorneycroft v NMC* [2014] EWHC 1565 (Admin). She submitted that none of the evidence sought to be admitted as hearsay was the sole or decisive evidence and it was for the panel to consider the factors in the case law.
10. Ms Michaels advised the panel that SU A is not attending and is a vulnerable person in the care of social services. She advised that, despite the efforts of Social Work England, they have not been able to obtain a witness statement from SU A. Ms Michaels set out the details of the contact made with SU A and the efforts made to engage and to obtain a witness statement. Unfortunately, the arrangements made with SU A have not been successful despite further efforts by telephone and post and the special measures offered. She explained that similar efforts with SU A's partner JP had also been unsuccessful.
11. Ms Michaels submitted that it was fair to receive this evidence as hearsay and reminded the panel that it will hear evidence from Ms Hammond, Ms Stevens, and Mr Black who also provide evidence of the events alleged, Mr Black being the employer's investigating officer. It will be for the panel to decide, if admitted, what weight to attach to the evidence of SU A and JP. Ms Michaels submitted that none of the evidence is disputed by Ms Richards who has admitted the allegation.
12. Ms Michaels submitted that it was also fair to admit the evidence of SU B as hearsay evidence. Social Work England has also tried to engage with SU B who is a vulnerable person. Ms Michaels submitted that this evidence is reliable and is not disputed by Ms Richards.

Decision on Hearsay

13. The legal adviser reminded the panel of the guidance in *Thorneycroft v NMC; Bonhoeffer v GMC [2011] EWHC 1585 (Admin); and NMC v Ogbonna (2010) EWCA Civ 1216*. He reminded the panel of the need, first to consider the relevance of the evidence and whether it was fair to admit the evidence as hearsay. It should consider weight only if and when the evidence is admitted. He reminded the panel of the central requirement of fairness which includes considering the reasons for the non-attendance of the witnesses. The panel should have regard to all the issues in the case, including the other evidence which is to be called and the potential consequences of admitting the evidence. It must be satisfied that the evidence is demonstrably reliable, or alternatively that there will be some other means of testing its reliability.
14. The panel accepted the legal advice and found that the evidence sought to be admitted is relevant. It was satisfied that reasonable efforts have been made to engage all three witnesses and that there is good reason for their non-attendance. The evidence is not the sole or decisive evidence as there is other evidence, both live and documentary, which whilst not direct, goes to the issues alleged. The panel noted that there appears to be no serious contention regarding this evidence, and it took account that Ms Richards does not dispute this evidence and has admitted the allegation. She has not disputed their evidence and has not asked that SU A, JP or SU B be called to give live evidence. The evidence appears to be reliable and, further, the panel considers that there will be some means of testing that evidence when the panel hears from the live witnesses and considers the exhibits.
15. In all the circumstances, the panel decided that it was fair to admit the evidence of SU A, SU B and JP as hearsay evidence. It will assess and attach such weight to that evidence as it considers appropriate in due course.

Allegation

Whilst registered as a social worker;

1. (a) *On 29 April 2019 you claimed that you attended a home visit with Service User A when you had not ; and/or*
(b) On the 30 April 2019 you prepared a false visit record for the visit on the 29 April 2019
2. *On 30 April 2019 you asked and / or agreed with Service User A that they should lie and say that you attended a home visit with them on 29 April 2019.*
3. *On 29 April 2019 you claimed that you attended a home visit with Service User B when you had not.*
4. *Your actions in paragraphs 1(a), (b), 2 and/ or 3 were dishonest.*

The matters outlined above amount to the statutory ground of misconduct.

By reason of misconduct your fitness to practise is impaired.

Background

16. On 8 May 2019, the previous regulator, the Health and Care Professions Council (HCPC), received a referral from Stacey Oliver a Senior HR Advisor at Essex Partnership University Foundation Trust (“the Trust”) regarding the Social Worker, Ms Emma Richards. Ms Richards’ role at that time was as a Care Coordinator within the First Response and Recovery South-East Team at the Trust where she had worked since 12 June 2018.
17. Ms Richards was scheduled to work on 29 April 2019 where she was required to see several vulnerable service users. It is alleged that Ms Richards falsely claimed that she attended a home visit to two service users, SU A and SU B on that date and completed a false visit record for SU A. It is alleged that Ms Richards asked or agreed with SU A that they would lie and state that she had made the visit on 29 April 2019.
18. On the 29 April 2019 Ms Richards’ Manager, Debbie Hammond received a text message from Ms Richards stating that she was making a home visit to SU A, who was in crisis. Ms Hammond was later that day copied into an email from the Emotional Wellbeing and Mental Health Service (“EWMHS”) informing her that Ms Richards had not attended a scheduled meeting that morning with SU B.
19. Ms Hammond sent Ms Richards a text message to ask if she had seen SU B, to which Ms Richards responded saying that she had. Ms Hammond then contacted both SU A and SU B to see whether they had been seen by Ms Richards, SU A was unreachable but SU B confirmed that they had not seen her.
20. On the following day, 30 April 2019 Ms Hammond called SU A again who confirmed that they had not seen the Social Worker on the 29 April 2019. There was no mention of a call from Ms Richards to both East and West crisis teams, normal procedure when attending to a service user in crisis. It is alleged that Ms Richards, when questioned, claimed to have spent considerable time with SU A and their partner on the morning and afternoon of 29 April 2019 and completed a visit record for the 29 April 2019.
21. On Wednesday 1 May 2019, Ms Hammond received an email from SU A’s partner, JP, confirming that Ms Richards had visited on 29 April 2019. However later that day Ms Hammond received a phone call from SU A who was allegedly distressed, informing her that Ms Richards had asked them to lie for her and state she had visited when she had not.

22. Ms Richards was then questioned about these concerns and it is alleged she later admitted to Ms Hammond that she had lied and had been at the hospital with her father. Ms Richards, when interviewed by Mr Black as part of the Trust's internal disciplinary investigation, admitted to not making either visit and to creating the false entry about the visit to SU A. She also admitted to Mr Black that she had asked SU A and JP to say that she had visited them on 29 April 2019, when she had not.
23. On 8 September 2022 Ms Richards provided a written submission for the final hearing admitting the allegation. She has consistently admitted not making the visits. She has stated in her written submissions that she has reflected on her actions and has admitted the entire allegation.
24. The panel heard from three live witnesses for Social Work England:-
- Ms Frances Stevens - Team Manager for the Community Mental Health Teams and the Early Intervention for Psychosis team at the Trust
 - Mr Richard Black - Digital Services Manager at the Trust, appointed to conduct the internal disciplinary investigation for the Trust
 - Ms Debbie Hammond - Team Lead for the Knightswick First Response and recovery Wellbeing team at the Trust, Ms Richards' line manager.

Summary of Evidence

Witness 1 - Ms Frances Stevens

25. Ms Stevens is a registered social worker and is currently a lead trainer for the Trust. She was previously the team manager for the Recovery and Well-being teams and for the assessment part of the service at the Trust. She was the senior line manager for Ms Richards and for all the social care staff. She referred to her witness statement and adopted it as her evidence.
26. Ms Stevens referred to the events of 29, 30 April 2019 and 1 May 2019. She said she had written her exhibited initial statement about this incident within a day or two of the incident, and before the Trust's internal investigation. She told the panel that on 29 April 2019 there was a multi-disciplinary meeting which all of the team were expected to attend. She said that her colleague, Ms Hammond had received a text from Ms Richards saying that she could not attend the meeting as one of her patients, SU A, was in crisis and required a visit from her. She said that was not unusual as a patient needed to be seen face to face. She said she had seen the text from Ms Richards to Ms Hammond. That afternoon, Ms Hammond was contacted by EWMHS to advise that Ms Richards had not attended a scheduled handover meeting that morning in respect of SU B.

27. On Tuesday, 30 May 2019, SU A reported to Ms Hammond that they had not received a visit from Ms Richards. Ms Hammond had called SU A and Ms Stevens was present. She recalled that SU A had been upset and had required reassurance. Although the call was not on loud speaker, Ms Stevens understood from his tone of voice that SU A was *"confused, angry and conflicted"*. Ms Stevens met with Ms Richards later that day and she told the panel that Ms Richards had said that she had met SU A and had made a referral. Ms Richards had suggested to her that SU A's partner, JP, could confirm that visit.
28. On 1 May 2019, Ms Stevens heard from Ms Hammond that JP, SU A's partner, had confirmed to her that they had received a visit from SU A on 29 May 2019. However, later that afternoon Ms Hammond urgently contacted Ms Stevens to report that SU A had called again. Ms Hammond had spoken to them and JP and they had told Ms Hammond that Ms Richards had not in fact visited them on 29 April, and that Ms Richards had asked them to lie and to say that she had visited. They both later provided statements to the Trust confirming that.
29. Ms Hammond also reported to Ms Stevens that Ms Hammond had, on 29 April 2019, sent Ms Richards a text message about visiting SU B, and Ms Richards had confirmed to her that she had visited SU B. Ms Hammond later called SU B and they had told her that they had not received a visit from Ms Richards, and this was then reported to Ms Stevens.
30. Later, on 1 May 2019, Ms Stevens said she had met with Ms Richards who had admitted she had not been truthful and she had not made the visit to SU A. Ms Richards said that she had needed to visit her father in hospital but had not wanted to take time off. Ms Stevens told the panel that the file entry made by Ms Richards on 30 April 2019 recording her visit to SU A was not therefore an accurate entry as that visit had not, in fact, taken place.
31. Ms Stevens said that Ms Richards was at times inconsistent in her work, and was not always methodical in her notes and in her visits to patients. Ms Stevens said that Ms Richards was often late and there were sometimes gaps in her record keeping, but that she was always keen to work. She said that Ms Richards had worked hard for her patients and was liked by them. Ms Stevens said she had reported these issues to Mr Black during the Trust's investigation and what was recorded in the transcript of her interview with Mr Black was accurate.
32. Ms Stevens said that Ms Richards' conduct had placed both service users at risk, could have delayed treatment and had undermined confidence in the service. She said they relied upon the honesty and integrity of all staff to run the service. The 29 April 2019 record Ms Richards had made about visiting SU A could have misled other professionals, created confusion and could have resulted in SU A not being referred for treatment. She said that all notes needed to be accurate, otherwise the treatment could be delayed or

distorted. She stated that this would have been known to Ms Richards as it was all part of the Trust policy, the training, supervision and the induction she had received and that there could be no doubt about the need for contemporaneous and accurate record keeping.

33. Ms Stevens explained the Trust sickness policy with regard to Ms Richards and she said that she thought there had been a referral to Occupational Health (OH). The records of the interviews with Mr Black record that Ms Richards had previously had issues around adherence to sickness and Trust policies, but Ms Stevens had no specific recollection of whether she had referred Ms Richards to OH. She said that she would have followed HR advice and any OH report obtained. Ms Stevens said that she recalled that she had looked at changing work patterns for Ms Richards, but Ms Richards had not wanted to change her work arrangements and had not explained why.

Witness 2 – Mr Richard Black

34. Mr Black is employed as a Digital Services Manager at Essex Partnership University NHS Foundation Trust. He is an accredited Cognitive Behavioural Therapist and a member of BABCP (British Association for Behavioural & Cognitive Psychotherapies). He referred to his witness statement and adopted it as his evidence. He was the Head of Service at the time of the allegation and was appointed to conduct a disciplinary investigation and report in respect of the concerns regarding Ms Richards. He exhibited his redacted investigation report dated 26 June 2019.
35. Mr Black told the panel that he had conducted a number of interviews as part of that investigation and these were transcribed. He interviewed Ms Richards on 3 June 2019. A decision was made not to interview SU A or SU B. He had also considered Ms Richards' supervision and sickness records. He said that the supervision notes had made reference to her sickness record and to her case load, and he said that she appeared to have a good enough relationship with her managers to discuss her well-being. Mr Black said he knew that Ms Richards had been under stress, and had been unwell around that time. **[Private]**
36. Mr Black told the panel about his interview with Ms Richards and about the allegations about her not visiting SU A and SU B. He said she had been rather tearful and he had sought her views on her conduct. He said that Ms Richards had admitted that she had not made the visits to SU A and SU B and understood the impact on them. He said they had discussed her well-being and her reflections. This was all recorded in the transcript exhibited to the panel which he said was an accurate transcript. She had said to him, as recorded:- *"I mean I'm not gonna sit here and deny any of that all of it all of what's been said in the description happened."*
37. Mr Black said that Ms Richards had recently been off sick at that time and she felt that she had let people down, but had been concerned about her father. He said he felt that

she had been responding to a crisis situation and had not been thinking clearly. However, he said that she had admitted that she had made the entry on 29 April 2019 about the visit to SU A which had not in fact taken place, and that had seemed to him to be “*calculated*.” He said that was a breach of the service user’s trust.

Mr Black said that Ms Richards had seemed open and she had understood the gravity of what she had done, and had said she was “*disgusted*” with her behaviour. She had said to him that she knew she may lose her job.

Witness 3 – Ms Debbie Hammond

38. Ms Debbie Hammond told the panel that she adopted her witness statement as her evidence. She is a registered nurse and worked with Ms Richards at the time in the First Response and Recovery Team at the Trust, working with people struggling with mental health.
39. **[Private]**
40. Ms Hammond said that Ms Richards was a friendly and professional person. She explained she was Ms Richards direct line manager and supervisor, Ms Stevens was Ms Hammond’s line manager. She told the panel about the events of 29 April 2019 and the text she received from Ms Richards at 8.31am that day advising that she could not attend the meeting as a patient, SU A, was in crisis. She had missed a number of these important Monday morning meetings for various reasons, but Ms Hammond understood from Ms Richards that she had to visit SU A.
41. Ms Hammond said that at 4.10pm that day she had been copied into an email to Ms Richards from EWMHS advising her that Ms Richards had not visited SU B. As a result Ms Hammond contacted both SU A and SU B. SU B had told her that Ms Richards had not seen them that day. She had been unable to contact SU A at that point.
42. Ms Hammond told the panel that on Wednesday 1 May 2019, SU A called her and was agitated as Ms Richards had not done things for him as promised, and that SU A had told her that Ms Richards had not visited them on 29 April 2019 and had asked them to “*cover*” for her and say that she had visited, SU A told her that Ms Richards had asked them to lie for her. SU A had been very upset and felt let down by the service. Ms Hammond made a contemporaneous note of that telephone call. Ms Hammond said that she recalled that she also spoke to SU A’s partner, JP, who had also confirmed the missing visit and provided a statement to that effect as exhibited.
43. Ms Hammond said that if SU A had been in crisis, the missing visit from Ms Richards would have placed them at risk. In fact, Ms Hammond considered that SU A was not in crisis at that point but he had been upset by Ms Richards’ conduct. She said that Ms Richards’ conduct would have undermined trust and confidence in the service.

44. Ms Hammond confirmed that there was a file note made on 30 April 2019 at 12.17 by Ms Richards stating she had made a visit to SU A on 29 April 2019 reporting details of the visit and that she had made a referral, but no record of any such referral had been found. The notes also reported that a joint visit had been arranged for 2pm that day, but again Ms Hammond said she had found no such arrangements had been made. Ms Hammond told the panel how important accurate case notes were, and that a lack of referral could have had a huge impact on the service user.

Submissions on the facts

45. Ms Michaels summarised the case for Social Work England. She submitted that the panel should accept the evidence from all the witnesses, consider the hearsay evidence and the exhibits. She submitted that the evidence of Ms Stevens and Ms Hammond along with the relevant emails and texts should be accepted in relation to particulars 1a), 1b), 2 and 3 of the allegation. She reminded the panel that Ms Richards had admitted all the particulars.
46. Ms Michaels reminded the panel of the wording of particular 2 which alleges that Ms Richards “*asked and/or agreed*” with SU A that they should lie and she referred the panel to the contemporaneous notes made by Ms Hammond and the email received from SU A’s partner. She submitted these were reliable and credible accounts.
47. Ms Michaels referred the panel to the relevant case law on dishonesty. She submitted that Ms Richards lied on 30 April 2019 about the visit to SU A, and had also told Ms Stevens that she had spent considerable time with SU A. She submitted that the record made by Ms Richards was false. She also claimed to have met SU B at home but had said she had mis-read the text from Ms Hammond. Ms Michaels submitted that Ms Richards has subsequently admitted that she lied, and she admits the allegation. She therefore knew she had lied and that she made a false entry to avoid detection. Both Ms Stevens’ and Ms Hammond’s evidence was that Ms Richards had breached the Trust policies on both care and record keeping, as well as breaching the trust of patients and undermining the service. Ms Michaels submitted that both subjectively and objectively, Ms Richards had been dishonest. She asked the panel to find the whole allegation proved.

Finding and reasons on facts

48. The legal adviser advised the panel that the burden of proof rests on Social Work England and that the standard of proof is the balance of probabilities. Ms Richards need prove nothing. He referred the panel to the guidance on dishonesty in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. He reminded the panel to assess with particular care the hearsay evidence and to attach such weight to it, if any, as it considers fair and appropriate.

49. The panel accepted the legal advice and considered all the evidence, mindful that the burden rests on Social Work England who require to prove the allegations on the balance of probabilities.

50. The panel found in respect of the particulars as follows:-

Whilst registered as a social worker;

Particular 1 (a) On 29 April 2019 you claimed that you attended a home visit with Service User A when you had not;

51. The panel considered the evidence from Ms Hammond and the text message exchange between her and Ms Richards on 29 April 2019, which is consistent with the evidence of Ms Stevens and SU A. The panel noted in the text message on 29 April 2019 from Ms Richards to Ms Hammond, that Ms Richards said she had made the visit to SU A who was “in crisis” and may need to be admitted. Ms Hammond told the panel that Ms Richards said to her that she had made a referral and a further appointment for SU A. The statement and email received from SU A and their partner states that the visit was not made, and that Ms Richards asked them to say that she had undertaken the visit.

52. The panel found that this evidence was clear, consistent, plausible and cogent and it found Ms Hammond’s evidence was reliable and credible. It is supported by the evidence from Ms Stevens, SU A and their partner, JP. Further, Ms Richards admits this particular. The panel found this particular proved.

Particular 1 (b) On the 30 April 2019 you prepared a false visit record for the visit on the 29 April 2019

53. Ms Hammond was clear in her evidence that a record was made by Ms Richards at 12.17 on 30 April 2019 stating that she had visited SU A and had made arrangements for a referral and for another meeting at 2pm. Ms Hammond told the panel that this was not true as Ms Richards had not visited SU A and no referral or appointment had been made, as claimed by Ms Richards at the time. This record was false which was later admitted by Ms Richards to Ms Stevens and to Mr Black, and she admits the allegation. The panel accepted that evidence and it found this particular proved.

Particular 2 On 30 April 2019 you asked and / or agreed with Service User A that they should lie and say that you attended a home visit with them on 29 April 2019.

54. The panel considered the evidence in the email from SU A’s partner which states that they called Ms Richards and she had then asked them to say she had made a visit to them on 29 April 2019. Ms Hammond in her contemporaneous note records that SU A told her that Ms Richards had telephoned them and asked them to say that she had visited them on 29 April 2019 when she had not. It is not clear to the panel who initiated the conversation between SU A and Ms Richards, but the panel need not resolve that issue. It found that

there was a discussion between Ms Richards and SU A about claiming that the visit on 29 April 2019 took place. The evidence from Ms Hammond, SU A and JP was that an agreement was reached that SU A and JP would report that Ms Richards had made the visit. Ms Stevens' evidence is that when she asked Ms Richards she had told her that she had asked SU A to *"continue the lie about the visit"* and that she knew it was *"wrong"*.

55. On balance, the panel found that in having that discussion, Ms Richards and SU A agreed that SU A would lie and say that she attended the home visit, and that Ms Richards asked SU A to do so. The panel was mindful that Ms Richards admits this particular. The panel found this particular proved both as to *"asked"* and *"agreed"*.

Particular 3 - On 29 April 2019 you claimed that you attended a home visit with Service User B when you had not.

56. The panel took account of the text messages on 29 April 2019 between Ms Richards and Ms Hammond where Ms Richards claimed to have visited SU B stating *"was late for the appointment at Remus ewmhs"* being a reference to SU B. The email at 16.15 later that same day from EWMHS to Ms Richards, copied to Ms Hammond, queried why she had not attended that appointment. This led Ms Hammond to make enquiry with SU B, and they confirmed to Ms Hammond that they had not met with Ms Richards on 29 April 2019.
57. Further, the panel accepted the credible and reliable live evidence from Ms Hammond which is consistent with her witness statement, her live evidence and with what she told Mr Black as part of the disciplinary investigation, which was accurately recorded as follows:- *"I received text message from ER [Ms Richards] stating that she would not be in due to one of her patients being in crisis, she planned to make a home visit to patient [SU A] before coming back to the office. ER had other patients booked in for Monday. In the afternoon I received an email from EWMHS Team addressed to Emma and I was copied in stating that ER had not attended the scheduled meeting that morning. I texted ER and asked if she had seen patient [SU B] to which ER replied ; yes but at home due to the feet (SIC) that she had been delayed because she was dealing with patient [SU A] in crisis. I spoke to FS [Ms Stevens] and was asked to telephone both patients to ask if they had seen ER today. Patient [SU B] confirmed he had not seen ER and patient [SU A] could not be reached."*
58. The panel accepted that evidence. It found Ms Hammond, Ms Stevens and Mr Black to be open, honest and credible and their evidence was consistent with each other, and with the records of their interviews with Mr Black. It also took account of the admission by Ms Richards that she had not made this visit, but had claimed that she had done so, and the evidence from SU B that she had not visited. The panel found this particular proved.

4. Your actions in paragraphs 1(a), (b), 2 and/ or 3 were dishonest.

59. The panel was mindful of the guidance in *Ivey*. It first considered Ms Richards' state of mind and whether subjectively she knew that her actions were dishonest. The panel took account of the admissions made to Social Work England and those made on 1 May 2019 by Ms Richards to Ms Hammond, Ms Stevens and later to Mr Black during the disciplinary investigation. The panel found that Ms Richards knew at the time that she had lied, and that she had been dishonest in respect of the claimed visits she had made to SU A, SU B and the false entry. The panel found that Ms Richards also knew that when she asked and agreed with SU A that they state she had made the visit when she had not, she was being dishonest. She has admitted that she did so and told Mr Black that it was "*wrong*".
60. The panel found that, objectively, an ordinary, decent person would conclude that the conduct and behaviour of Ms Richards was dishonest when stating that she had made visits knowing that she had not; when creating a false entry for one of the visits; and when she asked a service user to lie to cover her own lie about the visit. The panel found the conduct proved at 1a), 1b), 2 and 3 was all dishonest.

Submissions on Misconduct and Impairment

61. The panel heard from Ms Michaels who referred the panel to the relevant case law on misconduct and impairment. She submitted that these were both matters for the professional judgement of the panel. She submitted that all of the particulars of the allegation found proved were serious and amounted to misconduct. She submitted that Ms Richards breached the trust placed in her as a social worker and there is evidence that SU A suffered harm as a result of her conduct.
62. Ms Michaels submitted that Ms Richards had breached the relevant standards being the HCPC Standards of conduct performance and ethics (2016) and the Standards of Proficiency for Social Workers (2017). She submitted that Ms Richards had breached standards 6.2, 9.1 and 10.1 of the 2016 Standards; and Standards 2, 2.2 and 2.8 of the 2017 Standards.
63. Ms Michaels reminded the panel that Ms Richards had lied to Ms Hammond and Ms Stevens and had created a false entry for SU A. Ms Richards had undermined trust and confidence in the profession. Ms Michaels submitted that the panel ought to make a finding of misconduct.
64. With regard to impairment of fitness to practise, Ms Michaels referred to the guidance from Social Work England and to the case law including the case of *CHRE v NMC and Grant* [2011] EWHC 927 (admin). She submitted that the tests in *Grant* were fully engaged, Ms Richards having caused harm, breached fundamental tenets of the profession, brought the profession into disrepute and acted dishonestly. She reminded the panel of the importance of the public interest and submitted that Ms Richards' fitness to practise is currently impaired.

65. Ms Michaels reminded the panel that Ms Richards had made admissions and on 8 September 2022 she said that she had reflected on her conduct. Ms Michaels submitted, however, that there was no evidence of remediation or any information about Ms Richards' current circumstances or employment. Ms Richards had not addressed her dishonesty, and had shown limited insight into the impact of her actions. Ms Michaels submitted that there is no evidence of the therapy that Ms Richards states she had undertaken, and she invited the panel to find that there was a high risk of repetition and that Ms Richards' fitness to practise is currently impaired on both the personal and public elements of impairment.

Finding and reasons on misconduct and current impairment

66. The panel accepted the advice of the legal adviser who referred it to the guidance on misconduct in Roylance v GMC (no 2) [2000] 1 AC 311 where misconduct was defined as *"a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances."* A finding on grounds and on impairment is a matter for the panel's own professional judgement and there was no onus or burden of proof in that regard.
67. The panel accepted the advice of the legal adviser on impairment. He referred it to the guidance issued by Social Work England and in CHRE v NMC and Grant [2011] EWHC 927 (Admin) and he reminded the panel to consider the crucial issues of insight, remorse, remediation and the risk of repetition. Further, the panel should not lose sight of the important public interest issues stressed in Cohen v GMC [2008] EWHC 581 and described as:- *"...critically important public policy issues which are: the need to protect the individual and the collective need to maintain confidence in the profession as well as declaring and upholding proper standards of conduct and behaviour which the public expect."*
68. The panel first considered the issue of misconduct and was mindful of its findings on facts and the guidance in *Roylance*. Although this matter could be described as an isolated sequence of events, Ms Richards lied and maintained that deception for some two days. The panel has found that she fabricated an account in respect of her meeting with SU A and SU B, and the story she told Ms Hammond about SU A was elaborate, including reporting that SU A had been in crisis, that she had referred them to the crisis team and had made a further appointment for them that day. Ms Richards' conduct caused SU A emotional harm and placed them at risk of further harm given the lie about a referral that had not in fact been made. The panel found that this conduct was a sustained deception, was serious and amounts to misconduct.
69. The case record was then created and contained false details of a referral and a further appointment for SU A. This was designed by Ms Richards to deceive and it placed SU A at significant risk of harm. That entry could have misled fellow professionals dealing with the

care of SU A, who was a vulnerable service user. The panel found this was serious and amounted to misconduct.

70. Asking, and agreeing with a vulnerable service user to have them lie to cover up Ms Richards' own deception was serious and the panel found that it amounted to misconduct. It abused the trust and confidence of the service user, it placed them at risk. It was self-serving and designed to deceive colleagues. It undermined confidence in the service, as was clear from the reaction of SU A, and it placed Ms Richards' own interests ahead of those of the service user.
71. The panel also found that the lie about visiting SU B was serious. That lie deceived colleagues and Ms Richards maintained that lie for some 2 days. That lie also potentially placed SU B at risk of harm and undermined their trust and confidence in the service.
72. The panel found that the conduct, both individually and collectively, fell far below what would have been proper in the circumstances and that it amounts to misconduct. It found that Ms Richards has seriously breached the professional standards referred to by Ms Michaels in her submission.

Impairment

73. When deciding impairment, the panel considered the evidence and submissions, and was mindful of the guidance in *Grant*. The panel considered that the misconduct found could be remedied, although dishonesty can be hard to remedy. Demonstrating good insight is a crucial aspect of that process. The panel considered the important aspects of insight, the risk of repetition of the misconduct, remorse and any evidence of Ms Richards remedying her practice.
74. The panel found that Ms Richards has demonstrated limited insight into her misconduct, and it found that she has not demonstrated sufficient insight into her dishonesty. She has expressed remorse and regret but the panel found that tended to be focussed on herself and her circumstances, rather than on the impact of her actions on service users, colleagues and the profession. The panel accepts that Ms Richards' personal circumstances at the time were very difficult but takes the view that they could not justify the dishonesty shown by her.
75. In the absence of Ms Richards demonstrating a proper understanding of why she acted as she did at that time, the panel concluded that there is a real risk of repetition. She has not explained why she did what she did, other than to say that it was to deal with a personal issue regarding her father. Ms Richards has provided no reflection to the panel about how she would deal with similar stressors in the future, or about the impact of her actions on others. Importantly, she has not shown insight in to why, with the hindsight of some years since the incident, she lied to colleagues, undermined trust and confidence in the profession, deliberately acted dishonestly and placed two vulnerable service users at risk

of harm. She had expressed little insight or remorse about the distress and harm she caused to SU A.

76. Further, the panel has no information before it about any steps taken by Ms Richards to remedy her practice. Ms Richards has provided no information about her current circumstances, any employment she has and the panel has no references or testimonials.
77. The panel considered the approach to findings of impairment suggested in *Grant* expressed as follow:-

“Do the finding show that fitness to practise is impaired in the sense that:

- a) Has the Registrant in the past acted and/or is liable in the future to act in a way so as to put service users at unwarranted risk of harm;*
- b) Has the Registrant in the past brought and/or is liable in the future to bring the profession into disrepute;*
- c) Has the Registrant in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession?*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.”*

78. The panel decided that all four limbs were engaged. It found that Ms Richards has, and is liable in the future to place service users at unwarranted risk of harm; that she has in the past and is liable in the future to bring the profession in to disrepute; that she has in the past and is liable in the future to breach fundamental tenets of the profession, namely trust and integrity; that she acted dishonestly and without evidence of developed insight, there is a continuing risk in the future.
79. The panel was mindful of the wider public interest and concluded that a member of the public would be most concerned were Ms Richards to be permitted to practise without restriction given the findings of misconduct. The panel decided that a finding of current impairment was required in order to uphold and declare proper professional standards and to maintain public confidence in the profession.
80. On both the personal and public element of impairment, the panel found Ms Richards’ fitness to practise currently impaired.

Submissions on sanction

81. Ms Michaels referred the panel to Social Work England’s Sanctions Guidance. She submitted that the panel should consider making a Removal Order given the lack of insight shown by Ms Richards. She submitted that there were mitigating factors that may assist including Ms Richards’ personal circumstances and her remorse. She submitted that the aggravating features were the breaches of fundamental tenets, placing service users at

risk of harm, and that Ms Richards was an experienced social worker and had shown limited insight and no remediation.

82. Ms Michaels referred to paragraph 69 of the Sanctions Guidance, and submitted that as Ms Richards presented a risk of harm that lower sanctions were not appropriate. She submitted that a Conditions of Practice Order was not appropriate as it would not protect the public or the wider public interest.
83. Ms Michaels referred to paragraphs 93, 103 and 104 of the Sanctions Guidance regarding the abuse of trust and submitted that any abuse of trust was serious and unacceptable. She submitted that an abuse of trust justified at least a Suspension Order or a Removal Order. She submitted that Suspension was not appropriate given the lack of any remediation, and that a Removal Order was the appropriate sanction given the seriousness of the misconduct which included dishonesty.

Decision on sanction

84. The legal adviser referred the panel to Social Work England's Sanctions Guidance and reminded it that the purpose of a sanction is not to punish. The panel must act proportionately and apply the least restrictive sanction that protects the public and the wider public interest. It should approach the question of sanction starting from the lowest level and move upward applying the least restrictive sanction that is appropriate, sufficient and proportionate. He reminded the panel to take account of any mitigating and aggravating factors and to balance the interests of Ms Richards with the need to protect the public and the wider public interest.
85. The panel found that the mitigating factors were:-
 - Ms Richards' difficult personal circumstances at the time
 - Demonstration of remorse
86. The panel found that the aggravating factors were:-
 - Emotional harm caused to SU A
 - Ms Richards was a senior and experienced social worker in mental health
87. The panel first considered taking no further action, issuing Advice or a Warning. The panel has found a lack of sufficient insight, that the conduct has not been remedied and the panel found there was a real risk of repetition. Taking proper account of the nature and gravity of these findings, the panel concluded that to take no further, issue Advice or give a Warning would not be proportionate. That would fail to protect the public, would undermine public confidence in the profession and would fail to uphold and declare proper professional standards.
88. The panel next considered a Conditions of Practice Order and was mindful of paragraphs 85, 86, 88 and 89 of the Sanctions Guidance and the nature and gravity of its findings. It

decided that it was not able to devise workable, realistic and proportionate conditions of practice which would sufficiently protect the public and be effective as regards the misconduct found. This includes dishonesty and abuse of trust which are behavioural and attitudinal in nature and into which Ms Richards has shown limited insight. Conditions would also fail to maintain public confidence and would fail sufficiently to mark the conduct as unacceptable. The panel concluded that conditions would not be proportionate or sufficient to protect the public and would fail to uphold and declare proper professional standards or maintain the reputation of the profession.

89. The panel next considered a Suspension Order. The panel has found the Ms Richards lied about visits, and asked a service user to lie for her, placing her interests ahead of that service user. The panel has found that was an abuse of the trust placed in her by service users, her colleagues and by the service as a whole. She placed SU A and SU B at risk of harm, and SU A suffered emotional harm as a result of her actions. This is compounded and aggravated by Ms Richards later falsifying a case record with potentially serious consequences for SU A whom she falsely claimed she had referred to the crisis team. That placed SU A at a serious risk of harm and could have misled her colleagues and, as a result, damaged and distorted the care and support given to SU A.
90. The panel found that Ms Richards constructed an elaborate deception, most clearly exemplified in the creation of the false case record at a point where she had reason to believe that her original deception about visits was about to be uncovered. She admitted matters only when her dishonesty was conclusively exposed by the inquiries made to the service users by Ms Hammond. Further, she continues to show limited insight and remediation. There is nothing before the panel from Ms Richards which indicates any development of her limited insight.
91. The panel found that the most recent submission from her on 8 September 2019 largely reiterates the same position she took at the time of the incident some three years ago. In her limited engagement, the panel found that Ms Richards has demonstrated a persistent lack of insight, acknowledgement and understanding of her behaviour, which remains despite the passage of time. In particular, she continues to show limited understanding or insight into her dishonesty and the profound implications of her misconduct for the welfare and safety of service users.
92. The panel concluded that the abuse of trust of service users and colleagues, involving the deliberate deception constructed by Ms Richards which included getting SU A to lie for her, so involving that service user in her dishonesty, in addition to the deliberate fabrication of the case record, is extremely serious.
93. In these circumstances, the panel decided, given the level of deception and the abuse of trust coupled with the lack of insight and remediation shown by Ms Richards, that a Suspension Order would not be proportionate and would not be sufficient to protect the public and would undermine public confidence in the profession. A suspension would be

insufficient to send the appropriate signal to the profession about the standard of behaviour expected of social workers.

94. The panel was mindful of paragraph 98 of the Sanctions Guidance:- *“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.”*
95. The panel concluded that this paragraph applied in this case given the seriousness of the misconduct and the persistent lack of insight. It concluded that nothing less than a Removal Order would be sufficient to protect the public. It further decided that nothing less than a Removal Order would serve to uphold and declare proper professional standards and maintain public confidence in the profession. The panel accordingly directs that the name of Ms Emma Richards be removed from the register.

Interim order

96. In light of its findings on sanction, the panel next considered an application by Ms Michaels for an Interim Suspension Order to cover the appeal period before the Removal Order becomes operative.
97. The panel accepted the advice of the legal adviser who referred it to the guidance on interim orders. He reminded the panel that an interim order must be necessary to protect the public, or otherwise in the public interest. The panel must be mindful of its earlier findings, act proportionately and balance the interests of the Registrant with the need to protect the public.
98. The panel was mindful of its earlier findings and concluded that an interim order is necessary to protect the public in the appeal period. The panel decided that it would be wholly incompatible with its earlier findings and with the Removal Order imposed to conclude that an Interim Order was not necessary for protection of the public or otherwise in the public interest.
99. Accordingly, the panel considered that an interim conditions of practice order would not sufficiently protect the public and that therefore an Interim Suspension Order should be imposed on both 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 any 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 once the 28 day appeal period expires.
100. The panel revokes the existing interim conditions of practice order.

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 Practice 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.