

Social Worker: Keith James Evans

Registration Number: SW24285

Fitness to Practise:

Final Hearing

Date(s) of hearing: 14-17 November 2022

Hearing Venue: Remote hearing

Hearing outcome: Removal order

Interim order: Interim suspension order (12 months)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Evans did not attend and was not represented.
3. Social Work England was represented by Ms Aphra Bruce-Jones, instructed by Capsticks LLP.

Adjudicators	Role
Clive Powell	Chair
Vicki Lawson-Brown	Social Worker Adjudicator
Moriam Bartlett	Lay Adjudicator

Harry Frost	Hearings Officer
Thanvi Hoque	Hearings 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 it heard from Ms Bruce-Jones. The panel considered a copy of the notice of hearing dated 13 October 2022 sent to Mr Evans with the hearing bundle to his email and to his postal address by special next day delivery; an extract from the Social Work England Register detailing his registered addresses; and a signed statement of service confirming service on 13 October 2022. 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 Bruce-Jones on proceeding in the absence of Mr Evans. 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 Mr Evans. 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 Mr Evans.
6. The panel noted that Mr Evans has had limited engagement with Social Work England. The panel found that there is nothing to suggest that adjourning today’s proceedings would secure his attendance on another date. He advised Social Work England on 14 August 2019, 25 October 2021 and in the written submission received on 30 September 2022 that he would not be attending and had ceased practising as a social worker.
7. The panel decided that Mr Evans has chosen to voluntarily absent himself and waived his right to attend. Having weighed the interests of Mr Evans 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 his

absence. There are live witnesses due to attend and there is a public interest in proceeding.

8. The panel noted that Mr Evans was given notice of a hearsay application, the proposed amendments to the allegation and discontinuance application by email sent with the Statement of Case on 13 October 2022. The panel further noted that notice of the second hearsay application in respect of the witness, Ms Wilde was made on 9 November 2022, Social Work England having been advised by Ms Wilde that she was unwell and abroad and would not be attending as a witness at the final hearing.

Allegation (as amended at the final hearing)

Whilst registered as a Social Worker and employed by Torbay Council and Torbay and South Devon NHS Foundation Trust:

1. *Between approximately February 2018 and July 2018, crossed professional boundaries in that you sent inappropriate text messages to Person A as set out in Schedule A.*
2. *Your actions at paragraph 1, were sexually motivated.*
3. *The matter set out in paragraphs 1 and 2 above constitute misconduct.*
4. *By reason of your misconduct, your fitness to practice is impaired.*

Schedule A

- A. *"I'd never noticed your eyes before, but they are really nice", or words to that-effect,*
- B. *"You are an amazing mum. Can I come round for a cuddle? "Can I come round for a coffee?", or words to that effect,*
- C. *"I would love to get you in the sauna, make a date get all sweaty and steamy together", or words to that effect,*
- D. *"so you would like a rubbed neck, should I bring my cream", or words to that effect,*
- E. *"I think you're great. I know you will get pissed off with...and his need for black and white processes but I think you are the one to challenge him. I wish I had your confidence...", or words to that effect,*
- F. *"Should I bring my cream? What time do you usually got to bed?", or words to that effect,*
- G. *"Just wondering when you ignore me and when you are asleep", or words to that effect,*
- H. *"WTF are these", or words to that effect,*
- I. *"do you hide from me then", or words to that effect,*
- J. *"Do I scare you then, why do I scare you?", or words to that effect,*

- K. *"Please be honest, I'd hate to turn you off", or words to that effect,*
- L. *"If you prefer I could treat you like shit?" , or words to that effect,*
- M. *"Please don't, coz I think you are lovely", or words to that effect,*
- N. *"Am on antibiotics again! Great!", or words to that effect,*
- O. *"How's your day going sugar puff:", or words to that effect,*
- P. *"I'd never intentionally upset you. Feel like a real thundercunt right now", or words to that effect,*
- Q. *"I really did not mean to upset you, I'm just a dick", or words to that effect,*
- R. *"So I can still come round for a cuddle?" or words to that effect*
- S. *"I have a fucking miserable wife! Always something wrong", or words to that effect*
- T. *"Yes. She knows she is being miserable but I'm just fed up of it!", or words to that effect*
- U. *"Don't be mean! Stop ignoring me!!! Give us a kiss!", or words to that effect*
- V. *"did I tell you I signed up at winners? Need to get fit. But since then I've been feeling rough I've been unable to go! Fed up of being such a fatty! And unfit. My body feels like its falling apart", or words to that effect*
- W. *"I can make a date. Get all sweaty and steamy together? But not until I've shed a few pounds I've got bigger boobs than you!", or words to that effect*
- X. *"I'd love to get you in the sauna", or words to that effect*
- Y. *"Am also going to mention your name to winners gym if I can get something for you!". Or words to that effect.*

Background

9. On 21 August 2018, the HCPC received a referral regarding the Respondent social worker, Keith Evans. The referral was made by Torbay Council, Mr Evan's former employer. Mr Evans had been employed by Torbay Council ("the Council") until 2 March 2018, after which time he worked at Torbay and South Devon NHS Foundation Trust, Torbay Hospital ("the Trust").
10. Mr Evans was a witness in private family law proceedings for a case in which he was previously the children's allocated social worker until February 2018. The case had been brought by the mother of the children concerned ("Person A") in respect of their father. In June 2018, during the hearing, a series of allegations were made by the father of the children in respect of the work of some of the professionals involved with the family, including Mr Evans. As a result, the Council's legal department was contacted by Person A's lawyer and the Council was advised that if the professionals wished to see the Court documents a formal application would need to be made. It was at this point that the Council became involved in the proceedings.

11. On 18 July 2018, during the private Family Court proceedings the mother of the children concerned ("Person A") said that Mr Evans had been sending private messages to her from February 2018 to July 2018.
12. The Judge in the Family Court proceedings ordered that Mr Evans' personal telephone text communications with Person A between 4 July 2017 and 18 July 2018 and his work phone communications between 4 July 2017 and 16 February 2018 should be disclosed to the Council's legal department. This was in part so that the Council could redact information relating to other families and avoid breaching confidentiality.
13. On 17 August 2022, Her Honour Judge Searle granted permission to the Council and Social Work England to disclose the messages sent by Mr Evans to Person A and for them to be used as part of the Social Work England regulatory proceedings concerning Mr Evans.
14. As a result of seeing the messages sent to Person A, the Council notified the Trust on 19 July 2018, who undertook an investigation into Mr Evan's actions and the Trust investigating officer, Ms Wilde, interviewed Mr Evans on 23 July 2018 and 31 August 2018. Mr Evans provided his account at these interviews and admitted to sending messages to Person A. He accepted that he had overstepped professional boundaries in doing so. He allegedly accepted that the messages appeared as if he were seeking out an affair with Person A, but denied that this was the case. He denied he wanted to pursue a closer relationship with Person A. He did not accept that those messages were sexually motivated but that they may "*appear*" as such.
15. Mr Evans has not formally responded to the notice of allegation and has had limited engagement with these proceedings. He stated on 10 December 2018 that he accepted the concerns but he did not intend to seek a relationship with Person A. On 30 September 2022 Mr Evans sent a written submission to Social Work England setting out his personal circumstances at the time of the allegation and accepting responsibility for his actions. He does not deny the allegation and states he will not be attending the final hearing.
16. Social Work England relied on the evidence of four witnesses and the panel heard live evidence from all except Ms Wilde:-
 - Cilla Wilson - Human Resources Manager, Torbay Council
 - Janine Bond - Senior Solicitor, Children and Adult Legal Team, Torbay Council
 - Tanya Wilde - Retired Social Worker and former Social Worker Lead across Paignton and Brixham for Torbay and South Devon NHS Trust
 - Ivy Adusei Mensah - A trainee solicitor at Capsticks who produces the Family Court Order and documents referred to in the Order.

Preliminary matters – Amendments and Discontinuance

17. Ms Bruce-Jones sought to amend the allegation. Notice was given to Mr Evans in the Statement of Case sent by email on 5 September 2022. She submitted that the amendment were minor and that there was no prejudice to Mr Evans. In particular 1 she sought amendment to add and delete the words in bold as follows:-

*Whilst registered as a Social Worker and employed by Torbay Council **and Torbay and South Devon NHS Foundation Trust:***

1. *Between approximately February 2018 and July 2018, **crossed professional boundaries in that** you sent inappropriate text messages to Person A as set out in Schedule A.*

18. Ms Bruce-Jones also sought a number of amendments to several of the text messages in schedule A and submitted these were to correct some minor errors as follows:

- h. *~~“What the fuck WTF~~ are these”, or words to that effect,*
k. *“Please be honest, I’d hate to ~~scare~~ turn you off”, or words to that effect,*
p. *“I’d never intentionally upset you. Feel like a real thunder ~~up~~ & not right now”, or words to that effect,*

19. The panel accepted the advice of the legal adviser who advised the panel to consider whether the proposed changes altered the overall nature or gravity of the allegation and whether it was fair in all the circumstances to allow the amendment, to which Mr Evans has not responded or objected.

20. The panel concluded that the proposed amendments do not alter the overall nature or the gravity of the allegation. The amendments are relatively minor in nature and there was no prejudice to Mr Evans in what is proposed. The words “*crossed professional boundaries*” are implicit in the nature of the allegation and those words now make that issue explicit. Mr Evans has not responded or objected. The panel concluded that all of the proposed amendments were fair and appropriate in the circumstances, and it allowed the amendments to be made.

21. Ms Bruce-Jones sought to discontinue particular 2 of the allegation :-

- 2 *On or after 6 February 2018 you disclosed confidential information about another case to Person A in that:*

- a. *You sent Person A a text message that stated “ I have to do a court statement about my involvement in a case where a baby sustained a skull fracture’.*

22. Ms Bruce-Jones advised that the witness, Janine Bond, has confirmed that Mr Evans sent the message alleged at 2a). However, she advised that it had not been possible to confirm that Mr Evans was allocated a case involving a baby who had sustained a skull fracture. It had therefore not been possible to produce evidence that Mr Evans breached confidentiality. She submitted that the message was not expressly put or referred to during Ms Wilde’s interviews with Mr Evans on 23 July 2018 and 31 August 2018 and that there was no direct or indirect information from Mr Evans which assists in seeking to identify to which case this may have related. In these circumstances she sought discontinuance as it would not be possible to prove this particular.
23. The panel accepted the advice of the legal adviser who reminded the panel of the public interest and fairness. He advised the panel about the need to ensure there was no under-prosecution, but that there also was no public interest in seeking to prove an allegation with no evidential basis. The panel accepted the submission from Ms Bruce-Jones and concluded that there is no public interest in pursuing an allegation with no proper evidential basis. In these circumstances, the panel, having been provided with full and detailed submissions on the case and the supporting evidence, was satisfied there is no under-prosecution. It concluded that it was fair and appropriate to allow this particular to be discontinued.

Preliminary matters - Hearsay applications

24. Ms Bruce-Jones made an application to receive the evidence of Person A as spoken to by witnesses Ms Bond and Ms Adusei Mensah as hearsay evidence. She also made an application to receive the evidence of Ms Wilde as hearsay. She advised that the hearsay application in respect of Person A was included with the Statement of Case sent to Mr Evans on 13 October 2022, and that the second hearsay application in respect of Ms Wilde was included in an email to Mr Evans from Social Work England on 9 November 2022. Mr Evans has not responded to either.

Notice of the Applications

25. Ms Bruce-Jones submitted that notice of the first application in respect of Person A was made on 13 October 2022 and she submitted that was appropriate notice, being more than 28 days. As regards the second hearsay application, she advised that the medical evidence relating to Ms Wilde’s attendance was received on 4 November 2022 and that led to the application for hearsay being drafted and sent to Mr Evans on 9 November 2022. He had been put on notice that Ms Wilde was not attending the hearing on 14 October 2022 and was asked then if he wished her to attend. She advised that he had not

responded and, whilst she accepted that was not a formal notice of the hearsay application, Ms Bruce-Jones submitted that Mr Evans was aware from that date that Ms Wilde was not attending.

26. Ms Wilde has consistently advised she would not attend the hearing and a witness summons was sent to her on 13 October 2022. She replied stating she would be abroad and later that there were medical grounds for her non-attendance. Ms Bruce-Jones submitted that notice had been given as soon as it was practicable to do so, given that the medical evidence underpinning Ms Wilde's non-attendance was received as late as 4 November 2022. She submitted that the notice given to Mr Evans was sufficient in all the circumstances.
27. The legal adviser gave advice to the panel about notice being fair and reasonable and stressed fairness to Mr Evans. He referred the panel to the evidence of the steps taken by Social Work England to engage and to secure the attendance of Ms Wilde.
28. The panel accepted the legal advice and decided that in respect of Person A, fair notice of the hearsay application had been given. As regards the second application regarding Ms Wilde, the panel noted that Mr Evans had been given notice of her non-attendance on 14 October 2022 and given notice specifically of the hearsay application on 9 November 2022. He has not responded to either, and has not asked for her attendance. Social Work England has sought, and latterly received, medical evidence that Ms Wilde was unable to attend.
29. The panel found that Social Work England has been diligent and it has sought to secure Ms Wilde's attendance with a formal witness summons. The panel considered that Social Work England could not reasonably have done more than it has. Ms Wilde only provided medical evidence that she was unable to attend, despite the witness summons, on 4 November 2022 and a written hearsay application was then prepared and notified to Mr Evans on 9 November 2022.
30. The panel concluded that in all the circumstances, the steps taken, and the notice given by Social Work England is reasonable, sufficient and appropriate in respect of both Person A and Ms Wilde. It has sought to secure Ms Wilde's attendance and it has given notice of some 4 weeks to Mr Evans of her non-attendance, followed by notice of the hearsay application soon after receiving the medical evidence.
31. Notice of the hearsay application of some five days has been given and Mr Evans who has not responded. Whilst that notice period is less than ideal, the panel was satisfied that in all the circumstances, it was sufficient, and it gave Mr Evans a reasonable opportunity to respond and to object. He did not do so, and he did not earlier respond to the notice that Ms Wilde was not attending. He takes no objection to her evidence or to the investigation

report she produced. The panel concluded that the notice given in respect of the application for Ms Wilde's evidence is reasonable and sufficient.

Hearsay applications

32. Ms Bruce-Jones made application to receive the evidence of Person A and Ms Wilde as hearsay evidence, and she referred to the relevant case law and her written applications. She referred the panel to the Family Court Order in respect of the text messages and to the evidence from the other witnesses about the text messages. She said that the evidence of Person A was not the sole and decisive evidence of the text messages and that it was fair that her evidence, as set out in her witness statement and exhibits to the family court as exhibited by Ms Adusei Mensah, should be admitted as hearsay evidence.
33. Ms Bruce-Jones in her written application set out the efforts made by Social Work England to secure the attendance of Person A. Person A had asked not to be contacted and had expressed clearly she did not want to attend as a witness. She had stated that it would affect her wellbeing were she to attend to give evidence. Social Work England had continued to try to engage with Person A but concluded that it was not able to secure her attendance.
34. In respect of Ms Wilde, Ms Bruce-Jones referred to Ms Wilde's witness statement. Ms Wilde told the solicitor taking the statement, Ms Adusei Mensah, that she could not attend the final hearing. **[PRIVATE]** Ms Wilde has provided a signed witness statement to Social Work England and has also provided evidence that she cannot attend due to her health and that she is out of the country. Ms Bruce-Jones submitted that it was fair to admit the evidence of Ms Wilde as hearsay evidence. She was the Trust investigating officer, a senior social worker, and her evidence was reliable and was unchallenged.
35. 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, the seriousness of the allegation, 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.
36. The panel accepted the legal advice. The evidence of both Person A and Ms Wilde is clearly relevant. The evidence of neither Person A or Ms Wilde is sole and decisive and, significantly, is supported by the court order that ordered that the texts sent by Mr Evans

to Person A be disclosed specifically to Social Work England, and which are now exhibited by Ms Adusei Mensah, trainee solicitor at Capsticks instructed by Social Work England.

37. The panel were advised that Person A had provided a formal account of the texts in the course of the Family Court proceedings, had the opportunity to check the record of their account and had signed to confirm it was accurate.
38. Ms Wilde, was the senior social worker appointed as the investigating officer by the Trust. The panel has the messages which were obtained and produced as a result of the court order. Ms Wilde twice interviewed Mr Evans and produced the investigation report in her professional role. She had no reason to fabricate any part of her evidence or the report. The panel considered that her evidence and the investigation report she exhibits are demonstrably reliable. They are not the sole or decisive evidence of the texts sent by Mr Evans, and her evidence and the report are not disputed and, significantly, are not challenged by Mr Evans.
39. Further, the panel considered that the evidence of both Person A and Ms Wilde can be tested as the evidence of the texts themselves sent by Mr Evans to Person A are produced in response to the court order. The texts are not disputed, and their authenticity is not challenged by the sender or the recipient, that is by Mr Evans or Person A. Mr Evans during the Trust investigation appears to have admitted sending them to Person A. Mr Evans knows that Person A and Ms Wilde are not attending and that hearsay applications will be made. He has not objected, and his accounts to Ms Wilde in the Trust investigation and to Social Work England are consistent with the evidence of Person A and with the text messages disclosed.
40. The panel was satisfied that in respect of both Person A and Ms Wilde that there were good and cogent reasons for their non-attendance and that Social Work England had made considerable efforts to secure the attendance of both. The panel concluded that, in all the circumstances, it was fair to admit the evidence of both as hearsay evidence. That evidence will be assessed and weighed in due course with all the other evidence, and such weight will be attached to it as the panel considers appropriate.

Summary of Evidence

Witness 1 - Ms Cilla Wilson

41. Ms Wilson is a Human Resources manager at the Council and was at the time Mr Evans was employed there. She adopted her witness statement as her evidence and stated it was true and accurate to the best of her knowledge and belief.
42. Ms Wilson explained her role and the Code of Conduct at the Council which applied to Mr Evans. She exhibited Mr Evans' Job description; his training records, the referral to HCPC;

the Council's Code of Conduct and the HCPC Standards of conduct, performance and ethics (2016).

Witness 2 - Ms Janine Bond

43. Ms Bond adopted her witness statements as her evidence. She is a senior solicitor at the Council and her specialism is within the Children's side of the team. She told the panel about her involvement in the family court proceedings involving Person A. She referred the panel to her witness statement where she states that Person A was the applicant in the family court proceedings about her children. She stated that on 18 June 2018 the legal department where she worked, received correspondence from Person A's solicitor advising that Person A's husband had raised concerns in respect of the work of some of the professionals involved with the family, including Mr Evans.
44. Ms Bond told the panel that Person A had then raised, whilst preparing an application for directions, that she had received text messages from Mr Evans who had been appointed as the social worker to Person A's children. That resulted in an application to the court for disclosure of the texts sent by Mr Evans to Person A and a formal order was subsequently made by the court for the texts sent by Mr Evans. She explained that in response to Person A's application, Mr Evans produced a position statement and had independent legal advice. She told the panel that the Council's legal department did not have any involvement in Mr Evans' response.
45. Ms Bond told the panel that the court order recites that the court had determined that the disclosure was necessary in order to assist the court to resolve the proceedings justly, in particular in relation to the court's assessment of the credibility and reliability of Person A and Mr Evans. Further the order recites that Person A and Mr Evans consented to the sharing of their personal information in respect of the records in the order. The disclosure which the court considered to be necessary was Mr Evans telephone records, both personal and work and Facebook messenger instant messages between Person A and Mr Evans. She told the panel what some of those messages said, including some of those alleged in schedule A.
46. Ms Bond stated that Mr Evans' actions had disrupted and prolonged the proceedings for the children and the family. Ms Bond told the panel that she considered that Mr Evans conduct had damaged the reputation of the Council, particularly in the eyes of the court and the solicitors involved in family court proceedings. She said that his conduct would also have damaged the reputation of the Children's Services at the council. The court proceedings and final outcome had been delayed due to the need to have court hearings about the disclosure of the text messages.

Witness 3 - Ms Ivy Adusei Mensah

47. Ms Adusei Mensah was a senior paralegal at Capsticks at the time and is now a trainee solicitor. She adopted her witness statement as her evidence. She exhibited the text messages sent by Mr Evans to Person A which were produced as a result of the court orders by Judge Searle at Exeter County Court on 27 July 2022 and 17 August 2022. That order permitted disclosure to Social Work England of the messages sent by Mr Evans to Person A. She also exhibited the formal witness statement and exhibits from Person A prepared for the court proceedings.

Closing Submissions for Social Work England

48. Ms Bruce-Jones closed the case, summarised the evidence and reminded the panel that the burden of proof is on Social Work England and that the standard of proof was the balance of probabilities.
49. Ms Bruce-Jones submitted that all the messages were sent after the family case was closed and Mr Evans should not have sent any of the messages. Ms Bruce-Jones said that he had admitted sending them to Person A, and that he had crossed professional boundaries. She submitted that the messages were sexually motivated as Mr Evans was seeking a sexual relationship with Person A. He has not offered any other plausible explanation and denies sexual motivation. She submitted the panel should find the messages in the round, were intimate in nature and were sexually motivated.
50. Ms Bruce-Jones referred to the guidance on misconduct and to the relevant case law. She submitted that Mr Evans had breached the HCPC Standards of conduct, performance and ethics (2016), paragraphs 1, 1.7, 2, 2.1, 2.7, 9, 9.4. She submitted that the messages took place over a period of time and Mr Evans maintained contact with Person A far beyond what was appropriate and that his messages were sexually motivated, the conduct was serious and it amounted to misconduct.
51. Ms Bruce-Jones submitted that the panel should find that Mr Evan's fitness to practice currently impaired and she referred to the guidance in the case law including *CHRE v NMC and Grant* [2011] EWHC 927 (Admin). Ms Bruce-Jones submitted that the actions of Mr Evans had brought the council into disrepute and that he had breached professional boundaries, breaching a fundamental tenet of the profession. His actions had impacted on service users. She referred to the written submissions from Mr Evans whom she submitted had shown limited insight and had sought to minimise his conduct.
52. Ms Bruce-Jones submitted that Mr Evans had not demonstrated any reflection on the impact of his actions. She referred to the statement from Mr Evans received on 30 September 2022 and submitted that he had shown some insight and had stated that at the time he had health issues. Mr Evans had still not however, reflected on the impact of his actions on the service users and has stated that he has left the social work profession

and had no wish to practise again. He has asked to be removed from the register.
[Private].

53. Ms Bruce-Jones submitted that there was a risk of repetition and that the panel should find current impairment in these circumstances. She also submitted that a finding was also required in the public interest in order to uphold proper professional standards.

Finding and reasons on facts

54. The panel were reminded by the legal adviser of the standard and burden of proof and that Mr Evans need prove nothing. The legal adviser referred the panel to the guidance in *Haris v GMC* [2021] EWCA Civ 763 and *Basson v GMC* [2018] EWHC 505 (Admin) in respect of sexual motivation and that it should consider all the evidence and whether the panel can make the inferences necessary to find sexual motivation. It accepted that advice and applied the balance of probabilities to the evidence and carefully weighed the hearsay evidence.

Allegation 1 - *Between approximately February 2018 and July 2018, crossed professional boundaries in that you sent inappropriate text messages to Person A as set out in Schedule A* - Proved

55. The panel considered all the evidence and the submissions from Ms Bruce-Jones as well as the written submissions received from Mr Evans. It considered the texts disclosed under the court order. The messages before it in schedule A derive directly from the mobile telephone companies and were disclosed in response to that court order. The panel accepted that they are authentic and that they are the messages sent by Mr Evans to Person A in the period alleged.
56. The panel took account of Mr Evans' undated written submission received on 30 September 2022 where he states :-

" I recognise and accept that my action fell far short of what is expected of a professional. I do not wish to minimise the seriousness of what occurred, and I take full responsibility for my actions. I also recognise that I remain unfit for practice due to the previously mentioned issues. I therefore request that my name is removed from the register. I recognise that social work is too much of an emotionally demanding role for me and a profession that I do not wish to remain within.

To clarify, I take full responsibility and do not challenge any claim made by Social Work England. I was and remain unfit for practice due to a number of reasons. I wish for my name to be removed from the register. I do not plan on attending the hearing as from a personal standpoint, this has been 'going on' since 2018 and I am trying to move on from my past actions and failings."

57. The text messages are not disputed and Mr Evans has not disputed that he sent them to Person A. He does not dispute what he said at the interviews he had with Ms Wilde and does not dispute her evidence and the investigation report which she produced. This evidence is all largely consistent with the messages, as is the witness statement of Person A. The panel attached weight to the evidence of Person A, Ms Wilde and to the record of her two interviews with Mr Evans conducted as part of the Trust investigation report (although it disregarded the outcome of the investigation report). Mr Evans seeks to explain the messages but he does not deny sending them. He accepted in his interviews that he had crossed professional boundaries and stated on 23 July 2018:- *"I am not going to condone or say I have done is not wrong. I overstepped the boundary and became compromised... I appreciate that I have overstepped boundaries."*

58. The panel found that the texts as alleged were sent, were inappropriate and that they crossed professional boundaries. Mr Evans had no proper or professional reason to send them and he did not do so in any professional capacity. They were disclosed to Social Work England as a result of a court order by the family court, and they are not disputed or denied by Mr Evans. They are consistent with the evidence of Person A, Ms Wilde and the Trust investigation report and, indeed, with the position taken by Mr Evans. The panel accordingly found Allegation 1, and schedule A, proved.

Allegation 2 - Your actions at paragraph 1, were sexually motivated – Proved

59. The panel considered the guidance in the *Basson* and *Haris* cases. It was mindful that it is assessing Mr Evans' state of mind when he sent the messages and that is something that the panel may find inferentially and by deduction from his conduct and the surrounding evidence on the balance of probabilities. The panel found that the texts are part of a sustained course of conduct by Mr Evans directed at Person A, and the panel decided it was appropriate to consider the texts as a whole.

60. The panel considered that a few of the messages taken alone and out of context such as H. *"WTF are these"* and I. *"do you hide from me then"* might be considered not to contain sexual overtones and not be sexually motivated. However, the panel found these were in the context of the other messages which all contained sexualised language and sexual overtones. The messages discuss being sweaty in a sauna together, rubbing cream on, having a cuddle, and looking for a kiss. Mr Evans calls Person A *"sugar puff."* Significantly, in the first text he tells Person A that she has *"really nice"* eyes.

61. The panel found that the content, tone and nature of the texts sent by Mr Evans to Person A make clear that he is sexually attracted to Person A, and further, that he wants her to know that he feels that way. The panel found that the texts were not subtle or coy and were overtly sexualised in tone. The panel found that in sending these texts Mr Evans was *"testing the water"* as it were, to see if Person A was attracted to him and to see whether

she would reciprocate. They persist over some six months and the panel found that the conduct of Mr Evans in this regard was predatory in nature.

62. The panel found there was no alternative explanation offered by Mr Evans. At the interviews with Ms Wilde he claimed that some texts were taken out of context, but he accepts that he had crossed professional boundaries. None of the texts were sent for any proper, professional reason and Mr Evans has not claimed that any were. None were sent in his role as the social worker for her children or in his professional capacity.
63. In these circumstances, the panel concluded that the texts were all part of a course of sexualised conduct by Mr Evans who deliberately disclosed his sexual attraction to Person A, and sought her response. The panel found that the texts were all sent in pursuit of a future sexual relationship with Person A, a service user to whose children Mr Evans had been appointed as a social worker in the family court case. The panel concluded that all the texts sent, as found proved, were sexually motivated. It finds this particular of the allegation proved.

Finding and reasons on misconduct

64. The panel accepted the advice of the legal advisor 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. The panel accepted the legal advice and was mindful of the guidance in *Roylance*.
65. Mr Evans contacted Person A when he had no reason to do so as the case had been closed and his professional role had ceased. He persistently contacted Person A over six months without any proper or professional reason to do so. The panel found that was wholly inappropriate and, further, it has found that his conduct in sending the texts was sexually motivated in pursuit of a sexual relationship with Person A.
66. Mr Evans’ unwarranted and unwelcome contact with Person A complicated and delayed the family court proceedings and undermined the evidence given by Mr Evans in his professional role. It undermined the reputation of the council and the wider social work profession. The panel found that this conduct is serious and falls far short of what would have been proper, and it concluded that it amounts to misconduct.
67. The panel also considered the relevant HCPC Standards of conduct, performance and ethics (2016) and found that Mr Evans’ conduct had breached standards 1, 1.1, 2, 2.7, 6.1, 6.2, 9, 9.4:-

1. Promote and protect the interests of service users and carers - Treat service users and carers with respect

1.1 You must treat service users and carers as individuals, respecting their privacy and dignity.

2. Communicate appropriately and effectively - Communicate with service users and carers

2.7 Social media and networking websites - You must use all forms of communication appropriately and responsibly, including social media and networking websites

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible.

6.2 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.

9. Be honest and trustworthy - Personal and professional behaviour

9.4 You must declare issues that might create conflicts of interest and make sure that they do not influence your judgement.

Finding and reasons on current impairment of fitness to practise

68. 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.”

69. The panel accepted the legal advice and was mindful of the guidance from Social Work England and in *Grant*. The panel considered that Mr Evans has expressed some remorse but has shown some limited insight into his conduct. His misconduct is remediable, but the panel found that Mr Evans has not demonstrated any steps taken to remedy his practice. The panel found that he has not sufficiently acknowledged and recognised his misconduct and its sexual motivation. Such insight as he has shown has been limited to his personal circumstances, about which the panel has no independent evidence. He has shown little insight into the impact of his misconduct on service users, on Person A and her family, on his colleagues, the court case or on the social work profession at large.

70. The panel found that his misconduct was attitudinal in nature and that Mr Evans has demonstrated little understanding or insight into why he acted as he did, and what in the future he would do in similar circumstances. The panel concluded that there was accordingly a high risk of repetition of the misconduct.

71. The panel found that Mr Evans in acting this way brought the profession and his employer, the Council, into disrepute. The panel found that he seriously breached professional boundaries and pursued a sexually motivated course of conduct over a sustained period of time, sending messages over some six months to Person A who states that she thought they were “*inappropriate*” and had tried to ignore them. The panel found that Mr Evans’ misconduct caused Person A emotional harm, and that his conduct directly resulted in a delay to the family court proceedings. In delaying the outcome of those proceedings the panel concluded that Mr Evans’ conduct likely placed Person A and the whole family at unwarranted risk of harm.
72. The panel applied the approach in *Grant* to assessing current impairment expressed as follows:-
- “Do the findings 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?”*

73. The panel concluded that its findings, in particular his lack of sufficient insight and any remediation, show that Mr Evans’s fitness to practice is impaired in the sense that he has in the past and is liable in the future to place service users at unwarranted risk of harm; he has in the past and is liable in the future to bring the profession into disrepute; and that he has in the past and is liable in the future to breach fundamental tenets of the profession, namely professional boundaries and trust. The panel decided that Mr Evans’ fitness to practise is currently impaired.

74. As regards the wider public interest considerations, the panel decided that any reasonable member of the public would be most concerned were a social worker who had pursued a sustained course of sexually motivated conduct towards the mother of children for whom he had been the social worker, not found to be impaired. The panel decided that a finding of impairment was therefore necessary in order to maintain public confidence in the profession and to declare and uphold proper professional standards.

75. The panel accordingly finds Mr Evans’ fitness to practise is currently impaired on both the personal and public interest elements of impairment.

Submissions and Decision on sanction

76. Ms Bruce-Jones submitted that Social Work England's position was that there should be a Removal Order. She referred the panel to the Sanctions Guidance and submitted that with regard to paragraph 69 there is, in this case, a current risk to the public. She submitted that conditions of practice were not appropriate in this case given the attitudinal nature of the concerns. She submitted that a Suspension Order was not sufficient given the gravity of the findings and where there is no remediation and limited insight. She submitted that a Removal Order was proportionate, and reminded the panel that Mr Evans seeks to be removed from the register.

77. 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 Mr Evans with the need to protect the public and the wider public interest.

78. The panel identified the following aggravating features:-

- The conduct was persistent, over a prolonged period
- The misconduct was deliberate and premeditated
- The texts were unwanted and unwelcome
- Mr Evans had no professional reason to send messages, no longer being the allocated social worker for the children
- The misconduct caused delay and disruption to the family court proceedings
- Actual emotional harm was caused to Person A

79. The panel identified the following mitigating features:-

- Early admission of his conduct when interviewed by Ms Wilde
- Some acceptance of responsibility for his actions
- Acknowledgement that his fitness to practise remains impaired and a request for removal from the register

80. The panel first considered taking no further action, issuing Advice or a Warning. The panel has found a lack of insight, that the conduct has not been remedied and that there was a high risk of repetition. Taking proper account of the nature and gravity of these findings, the panel concluded that to take no further action, issue Advice or to 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.

81. The panel next considered a Conditions of Practice Order and was mindful of paragraphs 84 - 89 of the Sanctions Guidance, the nature and gravity of its findings, and that the misconduct took place outside Mr Evans' professional role. The panel 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 type of misconduct found. This included persistent, sexually motivated conduct which is behavioural and attitudinal in nature and into which Mr Evans has shown limited insight and understanding. Further, he has stated that he wants to be removed from the register and there is nothing to suggest that he is able or willing to comply with any conditions. 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.
82. The panel next considered Suspension. The panel has found that Mr Evans has a lack of insight and further, that he has demonstrated an unwillingness to sufficiently acknowledge and understand the impact of his misconduct or to remediate his practice. He has stated that he has no interest in practising as a social worker and that he wants to be removed from the register. He has expressed no interest in seeking to remedy his conduct.
83. The panel was mindful of paragraph 94 of the Sanctions Guidance which states:- *"Decision makers should remember that the purpose of the proceedings is not to punish. It may be appropriate to impose a longer period of suspension where there is no reasonable prospect of the social worker regaining fitness to practise in the short term... It might arise where the social worker does not intend to remediate or practise in the short term but wishes to do so in due course."* In the circumstances of this case, the panel decided that a Suspension Order would serve little or no purpose and, given the lack of interest in any remediation shown by Mr Evans, the panel concluded that a Suspension Order was not sufficient to protect the public or in the wider public interest.
84. The panel decided that a reasonable member of the public would consider the misconduct found to be deplorable. They would be shocked if a social worker who has behaved as Mr Evans did, having taken no steps to understand and remedy his conduct and shown little insight, were not to be removed from the register. Mr Evans was, and remains, a risk to the public.
85. The panel decided that a Removal Order was appropriate and proportionate in this case. Given the nature and gravity of the misconduct, coupled with the lack of sufficient insight

and lack of remediation by Mr Evans, the panel concluded that nothing less than a Removal Order would be sufficient to protect the public, to maintain public confidence in the profession and to uphold proper professional standards.

86. The panel accordingly ordered that the name of Keith James Evans be removed from the Social Work England Register.

Interim order

87. In light of its findings on Sanction, the panel next considered an application by Ms Bruce-Jones for an Interim Suspension Order to cover the appeal period before the Removal Order becomes operative.
88. The panel accepted the advice of the legal adviser who referred it to the guidance on interim orders. He reminded the panel that the notice of hearing warned Mr Evans that the panel may consider the imposition of an interim order if a restrictive sanction is imposed. 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 Mr Evans with the need to protect the public.
89. 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 that it would be wholly incompatible with its earlier findings and with the Removal Order imposed to conclude that an Interim Suspension Order was not appropriate and necessary for the protection of the public and otherwise in the public interest.
90. Accordingly, the panel concluded that 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 12 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.

Right of Appeal

91. 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.

92. 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.
93. 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.
94. 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

95. 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.
96. 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.