



Social Worker: Rebekah McCabe

Registration Number: SW105972

Fitness to Practise:

Final Hearing

Dates of hearing: 14 to 18 November 2022

Hearing Venue: Remote hearing

Hearing outcome: Removal order

Interim order: Interim suspension order (18 months)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Ms McCabe did not attend and was not represented.
3. Social Work England was represented by Adrian Harris, of Capsticks solicitors LLP.

Adjudicators	Role
Caroline Healy	Chair
Charlotte Scott	Social Worker Adjudicator
Derek McFaull	Lay Adjudicator

Paul Harris	Hearings Officer
Gabriella Berettoni	Hearing Support Officer
David Mason	Legal Adviser

Service of Notice:

4. Ms McCabe did not attend and was not represented. The panel of adjudicators (hereafter “the panel”) was informed by Mr Harris that notice of this hearing was sent to Ms McCabe by special delivery and email, to her address and email address on the Social Work Register (the Register). Mr Harris submitted that the notice of this hearing had been duly served.
5. The panel of adjudicators (hereafter the panel) had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 5 October 2022 and addressed to Ms McCabe at her address and email address as they appear on the Social Work England Register;
 - An extract from the Social Work England Register detailing Ms McCabe’s registered address;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 5 October 2022 the writer sent by special delivery and email to Ms McCabe at the addresses referred to above: Notice of Hearing and related documents;

- A copy of a Royal Mail Track and Trace Document indicating that the documents had not been delivered or collected and had been returned to Social Work England.

6. The panel accepted the advice of the legal adviser in relation to service of notice that Social Work England only had to prove that the notice was sent, not that it was received.
7. Having had regard to Rule 44 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms McCabe in accordance with Rule 44.
8. The panel noted that the documents had not been delivered and that there was no evidence that they had been received via email, but accepted that the only duty upon Social Work England is to prove that the documents were sent, not that they were received.

Proceeding in the absence of the social worker:

9. The panel heard the submissions of Mr Harris on behalf of Social Work England as to whether it should hear Ms McCabe's case in her absence. He submitted that notice of this hearing had been duly served. He further submitted that whilst the panel should proceed with caution in making a decision to proceed in absence, it should also take into account the public interest. He said no application for an adjournment had been made by Ms McCabe and there was no guarantee that adjourning today's proceedings would secure her attendance. Mr Harris submitted that Ms McCabe had not engaged in the investigation or hearing at any stage. He therefore invited the panel to proceed in the public interest in the expeditious disposal of this hearing and to hear the case in the absence of Ms McCabe.
10. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The legal adviser advised that the panel should proceed with great care and caution in considering whether to proceed with the hearing in the absence of Ms McCabe and that it should consider fairness to both parties and the public interest. He advised that Ms McCabe was under a duty to cooperate with her regulator and to maintain an effective registered address.
11. The panel considered all of the information before it, together with the submissions made by Mr Harris on behalf of Social Work England. The panel considered that there was a public interest in the hearing of this case without further delay and that as Ms McCabe had not engaged in the process of the hearing and had not requested an adjournment, nothing would be gained by an adjournment of the hearing. The panel noted that Ms McCabe had not acknowledged email receipt of the notice of hearing and related documents. However, it concluded that she would be aware that Social Work England was investigating her case and that this might result in a hearing. It found that knowing that, Ms McCabe had the means of finding out when this hearing was to take place. The panel concluded, therefore, that whilst Ms McCabe had not directly waived her right to attend this hearing, by her not

engaging in the process at any stage she had in effect chosen not to attend a hearing of her case.

12. Having weighed the interests of Ms McCabe with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms McCabe's absence.

Allegations

The allegation arising from the regulatory concerns referred by Social Work England's Case Examiners on 25 May 2021 and 25 August 2021 is:

Whilst registered as a social worker:

1. On or around 6 March 2018,
 - a. Controlled drugs, namely cocaine and cannabis, were at your home;
 - b. You were aware of the presence of controlled drug/s;
 - c. [PRIVATE]
 - d. [PRIVATE]
2. You did not notify the HCPC that:
 - a) You were suspended on 6 March 2018 by your employer, Hartlepool Borough Council;
 - b) You were dismissed with effect from 30 May 2018 by your employer, Hartlepool Borough Council.
3. Your conduct in particular 2a and 2b was dishonest.
4. On 19 February 2019, you possessed a quantity of cannabis, a controlled drug of Class B in contravention of the Misuse of Drugs Act 1971.
5. On 19 February 2019, you possessed two prohibited weapons, namely Tasers.
6. On 29 August 2019, you were convicted at Cleveland Magistrates' Court of driving a motor vehicle with a proportion of controlled drug over the prescribed limit on 27 February 2019.
7. On 15 May 2019, you were convicted at Cleveland Magistrates' Court of driving a motor vehicle with a proportion of controlled drug over the prescribed limit on 8 March 2019.
- 8 Your conduct in particulars 1-5 constitute misconduct.

By reason of conviction and/or misconduct, your fitness to practise as a social worker is impaired.

Preliminary matters

13. On behalf of Social Work England Mr Harris made an application that the evidence of PT be admitted in the form of her witness statement without her being called to give evidence. He submitted that Rule 32 gave the panel wide powers to admit evidence, including hearsay. He told the panel that PT's statement only related to the production of documents and submitted that she would be unable to give evidence about their contents.
14. The panel accepted the advice of the legal adviser that it should consider the issues of fairness and relevance. It concluded that there was no information PT could give the panel beyond her written statement and that the statement and its exhibits could be admitted as hearsay without unfairness to Ms McCabe.
15. On behalf of Social Work England Mr Harris applied to admit in evidence an unredacted version of LADO (Local Authority Designated Officer) minutes of 6 March 2018, exhibited to a statement of EC, an employee of Capsticks solicitors LLP. He said that the main hearing bundle contained a redacted version of the document, but that the panel would be assisted by the unredacted version. Mr Harris submitted that no unfairness would be caused to Ms McCabe by the admission of the document as it contained information of which she would otherwise be aware.
16. The panel accepted the advice of the legal adviser that it should in considering the application consider the issues of fairness and relevance. The panel concluded that the document was relevant and could be admitted in evidence without unfairness to Ms McCabe.
17. [PRIVATE]

Summary of Evidence

18. Social Work England called as witnesses:

[PRIVATE]

TL, a Hartlepool Council employee with a role as an investigating officer.

TL was appointed by Hartlepool Council to investigate allegations related to Ms McCabe's employment as an independent person with no previous involvement with her. She gave evidence that she interviewed Ms McCabe on 11 April 2018 and subsequently produced her report which was used in disciplinary proceedings.

TL told the panel she was involved in investigating two sets of allegations, one relating to a police seizure of class A and B drugs at Ms McCabe's home [PRIVATE] and the second allegation that any police charges against Ms McCabe might bring her employer into disrepute. TL referred to the suspension letter sent to Ms McCabe and a redacted version of the LADO notes. [PRIVATE]

RM, Head of Registration for Social Work England.

RM gave evidence that the transfer of the regulation of social workers from the HCPC to Social Work England took place on 2 December 2019 when the register was transferred. She said that the register included declarations made by social workers to HCPC when required to do so.

RM gave evidence that she had checked the register for Ms McCabe on 18 November 2021 and that there were no declarations by her on the register for 2018. She said that if Ms McCabe had notified HCPC of her suspension on 6 March 2018 and her dismissal on 30 May 2018 these would have been on the register.

Social Work England relied on the evidence of PT in the form of her written statement admitted as hearsay. This statement consisted entirely of documents produced by her in the course of her employment.

Social Work England produced documents in the form of:

- A main bundle of 136 pages

- A witness bundle of 16 pages

- A supplementary bundle of 19 pages

- A service bundle of 21 pages

- An unredacted version of LADO notes

Social Work England also produced a statement of case and a hearing timetable

Social worker

Ms McCabe did not attend and was not represented. She therefore provided no evidence to the panel.

Finding and reasons on facts

Submissions

19. On behalf of Social Work England Mr Harris accepted that it bore the burden of proving the Allegation and that the standard of proof was the civil standard.

20. Mr Harris made submissions in relation to each part of the Allegation.
21. In relation to particular 1a of the Allegation, Mr Harris said this was proved by the evidence of the police searching the premises and finding a safe containing controlled drugs and the admissions made by Ms McCabe during the investigation by her employer that drugs had been found at her home.
22. In relation to particular 1b of the Allegation, Mr Harris said there was evidence showing that Ms McCabe was aware that the drugs were present in a safe in her kitchen although she had denied this. He submitted that her assertion that the drugs had been placed there to ruin her was 'far fetched'. He submitted that the evidence of the police that the kitchen smelled of cannabis and the failure of Ms McCabe at any time to produce the text message which she said she had received which threatened to ruin her, proved that she knew the drugs were in her kitchen. He said there was clear evidence in the unredacted LADO notes that at the relevant time Ms McCabe was in a relationship with a convicted drugs dealer who was resident in her home, which made it more likely that she was aware of the presence of the drugs.
23. [PRIVATE]
24. [PRIVATE]
25. In relation to particulars 2 a and b of the Allegation, Mr Harris said that the HCPC's standard 9.5 required registrants to inform it if they were suspended or dismissed by an employer. He said that the duty to report lay on the registrant and was not dependant on action taken by the employer. He said it was clear from the evidence of RM that Ms McCabe had taken no action to inform the HCPC of her suspension and dismissal.
26. In relation to particular 3 of the Allegation, Mr Harris referred the panel to the test for dishonesty which required the panel to establish subjectively what was in the mind of Ms McCabe as to her knowledge and belief at the relevant time and to then consider whether honest and decent people would find her conduct objectively dishonest. He submitted that Ms McCabe knew from 6 March 2018 that she was under investigation and that at the investigation meeting of 11 April 2018 the HCPC standards were discussed. Mr Harris said that Ms McCabe knew her employers were going to take action to inform the HCPC of the position, but he submitted that did not mean Ms McCabe did not need to make a declaration. He submitted that by not making a declaration to the HCPC, Ms McCabe gained a potential advantage and could have obtained other work as a social worker. He submitted that honest and decent members of the public would find her conduct overall to be dishonest.
27. In relation to particulars 4 and 5 of the Allegation, Mr Harris said that Ms McCabe had admitted in a court of law that she had been in possession of cannabis and the Tasers but that as the outcome of her court appearance was that she was given a conditional discharge, this did not amount to a conviction. He told the panel that the record of the court appearance proved that Ms McCabe had admitted possession.

28. In relation to particulars 6 and 7 of the Allegation, Mr Harris submitted that the certificates of conviction provided to the panel were sufficient to prove the convictions.

Legal advice

29. The legal adviser advised the panel that the burden of proof of each part of the Allegation was upon Social Work England and that the standard of proof was the civil standard, that is, proof on a balance of probabilities.
30. The legal adviser advised that the panel should consider each particular of the Allegation individually. He further advised the panel that it should evaluate the witnesses in relation to each particular and that it could accept or reject any part of the evidence given by a witness.
31. In relation to the issue of dishonesty, the legal adviser advised that the panel should apply the test set out by the Supreme Court in Ivey v Genting Casinos [2017] UKSC 67. He advised that:
- (1) the Committee should first ascertain (subjectively) the actual state of the Ms McCabe's knowledge or belief as to the facts at the relevant times, and then consider
 - (2) whether her conduct would be considered honest or dishonest, applying the (objective) standards of ordinary decent people.
32. The legal adviser advised that there is no need for the Social Work England to prove that the registrant knew she was acting dishonestly by the standards of ordinary, decent people. He further advised that a belief may be unreasonable but genuine, but it may be that an unreasonable belief is less likely to be genuine. The legal adviser advised that the panel should consider whether there were explanations other than dishonesty for the registrant's conduct, such as mistake or negligence.
33. The legal adviser advised that the panel could draw inferences from the facts it found. An inference is a reasonable deduction from the evidence, not mere conjecture or speculation. He advised that in relation to dishonesty, this could only be found by inference.
34. The legal adviser advised that as Ms McCabe was not present the panel should take into account any factors in her favour, but should not speculate as to what her defence might have been had she been present.

The Panel's findings on the facts

35. The panel took fully into account the submissions made on behalf of Social Work England by Mr Harris. It also accepted the advice of the legal adviser. As Ms McCabe was not in attendance at the hearing, the panel took account of any factor which might be in her favour in considering its findings of fact. It was careful, however, not to speculate what her defence might have been had she attended and considered the facts only on the basis of the evidence it had been provided with.
36. The panel considered each part of the Allegation separately in reaching its findings of fact. In relation to the Allegation, the panel reached the following findings of fact.

1. On or around 6 March 2018,

a. Controlled drugs, namely cocaine and cannabis, were at your home;

Proved

The panel found that there was clear evidence that a safe containing controlled drugs were found in the kitchen of Ms McCabe's home on 11 March 2018 when the police executed a search warrant at her home.

b. You were aware of the presence of controlled drug/s;

Proved

The panel noted that Ms McCabe had denied in her interview with the police and in her investigation interview that she knew the drugs were present in her home. However, the panel accepted the evidence that the police carrying out the search of her home found there was a strong smell of cannabis in the kitchen. The panel took into account the failure of Ms McCabe to produce at any time the text which she claimed to have received prior to 11 March 2018 threatening to ruin her. It considered that if this existed it would have been produced to the police and Ms McCabe's employers in support of her claim that the safe had been placed in her kitchen without her knowledge. The panel found it highly improbable that a safe in a cupboard in a domestic kitchen would not be noticed by someone living in the house.

Taking all of this evidence into account the panel found on a balance of probabilities that Ms McCabe knew of the presence of the drugs in her home before they were discovered by the police.

c. [PRIVATE]

d. [PRIVATE]

2. You did not notify the HCPC that:

a) You were suspended on 6 March 2018 by your employer, Hartlepool Borough Council;

b) You were dismissed with effect from 30 May 2018 by your employer, Hartlepool Borough Council.

Proved in its entirety

The panel approached this as an allegation of fact that Ms McCabe had not disclosed these events to HCPC as confirmed by the evidence of RM. On that basis it found it proved.

3. Your conduct in particular 2a and 2b was dishonest.

Not proved

The panel applied the test set out in the case of Ivey referred to in the advice it received from the legal adviser. Accordingly, it first considered what it could properly infer from the evidence as to Ms McCabe's actual state of knowledge and belief during the relevant period. It noted that this was not alleged to be two single acts of dishonesty at a defined point in time but was an allegation of a continuing dishonest state of mind beginning on 6 March 2018.

The panel as advised considered whether Ms McCabe's conduct could have been a result of something other than dishonesty. [PRIVATE]. The panel accepted that Ms McCabe had a duty to disclose her suspension and dismissal to HCPC, although she had been told that her employers were taking action to do so. The panel took account of the guidance in Ivey that an unreasonable belief may still be a genuine belief. It also accepted that Ms McCabe might have benefited from not making disclosure to the HCPC.

Taking all of the relevant evidence into account, the panel was not satisfied that Social Work England had proved on a balance of probabilities that Ms McCabe had acted dishonestly. It concluded that her state of mind may have been such that she was distracted by several distressing events which had preoccupied her and that she

had negligently failed to recognise that she should have reported the events at particulars 2a and 2b to the HCPC. She may also have been influenced by the erroneous belief that her duty to disclose was superseded by her employer's stated intention to report these events to the HCPC. The panel considered that decent and honest members of the public may not consider that Ms McCabe had acted dishonestly in those circumstances. The panel could not conclude that it was more likely than not that Ms McCabe had acted dishonestly.

4. On 19 February 2019, you possessed a quantity of cannabis, a controlled drug of Class B in contravention of the Misuse of Drugs Act 1971.

Proved

The panel found this particular proved on the basis of Ms McCabe's interview by the police on 21 February 2019 when she admitted possession of the cannabis for her personal use and of the sentencing remarks of Mr Recorder Giuliani at Teesside Crown Court on 14 June 2021 when he sentenced Ms McCabe to a conditional discharge for possession of cannabis as an alternative to a fine.

The panel is aware that because of the conditional discharge, this sentence does not amount to a conviction but is, it finds, sufficient to prove Ms McCabe's admission to being in possession of cannabis.

5. On 19 February 2019, you possessed two prohibited weapons, namely Tasers.

Proved

The panel found this particular proved on the basis of Ms McCabe's interview by the police on 21 February 2019 when she admitted possession of the Tasers but said that she did not know she required a permit for them and of the sentencing remarks of Mr Recorder Giuliani at Teesside Crown Court on 14 June 2021 when he sentenced Ms McCabe to a conditional discharge for possession of the Tasers as an alternative to a fine.

The panel is aware that because of the conditional discharge, this sentence does not amount to a conviction, but it finds sufficient to prove Ms McCabe's admission to being in possession of two Tasers.

6. On 29 August 2019, you were convicted at Cleveland Magistrates' Court of driving a motor vehicle with a proportion of controlled drug over the prescribed

limit on 27 February 2019.

Proved

The panel found this conviction proved on the basis of the memorandum of an entry in the Register of the Cleveland Magistrates' Court for 29 August 2019 which records Ms McCabe being convicted of the offence upon her plea of guilty.

7. On 15 May 2019, you were convicted at Cleveland Magistrates' Court of driving a motor vehicle with a proportion of controlled drug over the prescribed limit on 8 March 2019.

Proved

The panel found this conviction proved on the basis of the memorandum of an entry in the Register of the Cleveland Magistrates' Court for 15 May 2019 which records Ms McCabe being convicted of the offence upon her plea of guilty.

Finding and reasons on grounds

Statutory grounds and impairment

Submissions

37. On behalf of Social Work England, Mr Harris submitted that the panel's findings of fact amounted to statutory grounds for a finding of impairment. He reminded the panel that at this stage of the hearing there was no burden or standard of proof and that the panel should exercise its judgement in relation to the statutory grounds and impairment.
38. Mr Harris submitted that particulars 1 to 5 of the Allegation amounted to misconduct. He submitted that whilst particulars 4 and 5 amounted to findings of criminal conduct, they did not constitute convictions because the penalty imposed for them was a conditional discharge. He submitted that they did constitute serious misconduct.
39. Mr Harris referred the panel to the relevant HCPC standards 9.1 and 9.5, dated 26 January 2016;

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

9.5 – you must tell us as soon as possible if:

- you accept a caution from the police or you have been charged with, or found guilty of, a criminal offence;
-
- you have had restrictions placed on your practice, or been suspended or dismissed by an employer, because of concerns about your conduct or competence”

40. Mr Harris referred the panel to legal authorities relevant to misconduct.

Roylance v GMC (No.2) [2000] 1 AC 311, at para.35:

Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed...in the particular circumstances.

Remedy UK v GMC [2010] EWHC 1245

The first is “sufficiently serious misconduct in the exercise of professional practice such that it can properly be described as misconduct going to fitness to practise”. b. “conduct of a morally culpable or otherwise disgraceful kind which may, and often will, occur outside the course of professional practice, but which brings disgrace upon [the profession] and thereby prejudices the reputation of the profession.

41. Mr Harris also referred the panel to the overarching objective of Social Work England.
42. Mr Harris submitted that the conduct of Ms McCabe fell into the second category of misconduct referred to in Remedy UK, and could be described as disgraceful which brought the profession into disrepute.
43. Mr Harris further submitted that the panel’s findings of fact related to offences connected with both drugs and illegal weapons amounted to misconduct. He submitted that they showed attitudinal failings and a pattern of long-term criminal behaviour and a chaotic lifestyle.
44. In relation to particulars of the Allegation 6 and 7, Mr Harris submitted that these were serious offences of driving under the influence of drugs.
45. Mr Harris submitted that the statutory grounds of misconduct and conviction amounted to current impairment of Ms McCabe’s fitness to practice.
46. Mr Harris referred the panel to legal authorities relevant to the issue of impairment:

CHRE v NMC & Grant [2011] EWHC 927 (Admin)

The tribunal should consider whether [their] findings of fact in respect of the [registrant's] misconduct...show that his fitness to practise is impaired in the sense that he:

i Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm;

ii. Has in the past brought and/or is liable in the future to bring the...profession into disrepute;

iii. Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession;

iv.

Cohen v GMC [2008] EWHC 581 (Admin), para.65

It must be highly relevant in determining if...fitness to practise is impaired that first [the] conduct which led to the charge is easily remediable, second that it has been remedied, and third that it is highly unlikely to be repeated.

CHRE v NMC and Grant EWHC 927 (Admin)

In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not **only** whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

47. Mr Harris submitted that a person is fit to practice if they can be registered without restriction. He said that the panel should consider the risk to the public, the risk of repetition, Ms McCabe's history, her insight, any attempt at remediation and the confidence of the public in the profession. He referred the panel to her role in safeguarding children whilst engaging in a chaotic and illegal lifestyle, involving illegal drugs and weapons. He also referred the panel to Ms McCabe's convictions for driving whilst under the influence of drugs. Mr Harris said there was a risk that she had been working whilst under the influence of drugs. He also said that Ms McCabe had not been deterred by police action and had gone on committing offences after their first involvement. Mr Harris submitted that by not engaging in any way with Social Work England's investigation or the hearing, Ms McCabe had not shown any insight into her behaviour.
48. Mr Harris submitted that Ms McCabe had placed the public at risk, [PRIVATE], despite being engaged in a role intended to help people. He further submitted that her fitness to practice should also be found to be impaired on public interest grounds, as otherwise public confidence in the profession would be undermined. He said that members of the public would be shocked if there was no finding of impaired fitness to practice.

Legal advice

49. The legal adviser advised the panel that there was no burden or standard of proof at this stage of the hearing and that it was a matter for its judgement in considering both the statutory grounds and impairment of fitness to practice.
50. The legal adviser advised that the panel would have to consider first whether its findings of fact amounted to misconduct and then whether, together with its findings relating to conviction, Ms McCabe's fitness to practice is currently impaired.
51. The legal adviser referred the panel to the relevant authorities, as set out above. He advised the panel to consider both the protection of the public and the public interest when considering whether Ms McCabe's fitness to practice is currently impaired.

The panel's findings on misconduct, conviction and impairment

52. The panel began by considering its findings of fact and whether they amounted to the statutory ground of misconduct. It was clear to the panel that they did, both individually and collectively. It considered that they showed a pattern of illegal behaviour in relation to classified drugs and weapons, which amounted to a chaotic and illegal lifestyle. This continued over a prolonged period, even after the police first became involved with Ms McCabe. The panel found that Ms McCabe's conduct was disgraceful and would bring the profession into disrepute.
53. The panel went on to consider whether its finding of misconduct, together with the convictions it found proved, meant that Ms McCabe's fitness to practice is currently impaired.
54. The panel found that Ms McCabe had engaged in illegal activity which placed others at risk, [PRIVATE], when she was employed in a role with key responsibilities around safeguarding others. The panel considered that Ms McCabe's convictions showed that she was prepared to commit a serious offence of driving whilst under the influence of drugs, which put others at risk, on two occasions, showing that she was not deterred by her arrest for the first offence.
55. The panel had considerable doubts as to whether Ms McCabe's behaviour was capable of being remedied. It showed a pattern of sustained illegal conduct involving drugs and weapons which continued even after the police first became involved with her activities. The panel considered that this showed fundamental attitudinal characteristics which would be very difficult to remedy.
56. Even if it was possible for her behaviour to be remedied, the panel found that by not engaging with Social Work England at any stage of its investigation or in this hearing, Ms McCabe had demonstrated no insight and had failed to show any attempt to remedy her misconduct. The panel concluded that as there was no evidence of insight or remediation,

there was a high risk of repetition of misconduct if no action was taken to restrict Ms McCabe's practice. It was clear to the panel that Ms McCabe continued to pose a risk of harm to the public, and that her conduct amounted to a fundamental breach of the standards expected of a social worker.

57. The panel considered that in addition to the risk of harm which Ms McCabe's conduct posed, it was in any event in the public interest for it to reach a finding that her fitness to practice is currently impaired. Otherwise, public confidence in the profession and Social Work England would be seriously undermined. It considered that members of the public would be shocked if the panel did not find that Ms McCabe's fitness to practice is impaired.
58. The panel therefore finds that Ms McCabe's fitness to practice is currently impaired because of her misconduct and convictions both for the protection of the public and in the public interest.

Decision on sanction

Submissions

59. On behalf of Social Work England Mr Harris submitted that the appropriate sanction in this case was one of removal of Ms McCabe from the register.
60. Mr Harris submitted that the purpose of a sanction was not to punish but was intended to protect the public and the public interest in maintaining confidence in the profession. He said that he adopted the significant findings of the panel over Ms McCabe's conduct in making his submissions.
61. Mr Harris referred the panel to the Social Work England Guidance on Sanctions (November 2019). He submitted that removal from the register was necessary because of the serious nature of the concerns about Ms McCabe which the panel had found. Mr Harris submitted that deficiencies of character were harder to remediate than deficiencies in practise, and that there was no realistic prospect of remediation in Ms McCabe's case because of the serious findings of the panel related to her conduct. He submitted that Ms McCabe's failure to engage with Social Work England's investigation or the hearing meant there was no evidence of change, and that Ms McCabe appeared to have turned her back on the process. Mr Harris said that Ms McCabe had failed in her duties to safeguard and to report her suspension and dismissal to Social Work England.
62. Mr Harris submitted that there could be no guarantee that Ms McCabe would not attend work whilst under the influence of drugs. He said there was no evidence from her interview by the police that she understood the seriousness of the issues her conduct raised. She did not, he said, appear to recognise the seriousness of buying weapons as a gift and this, he said, indicated long term deficiencies in Ms McCabe's character.
63. Mr Harris submitted that whilst the panel should consider the sanctions open to it by working upwards from the least serious, only a sanction restricting Ms McCabe's practice

was sufficient. This meant, he said, that taking no action or issuing a warning or advice was not sufficient. He submitted that conditions would not be appropriate in this case and that whilst suspension would protect the public while the order was in force, only removal would meet the need to protect the public and the public interest.

64. Mr Harris said that there was some evidence that indicated problems in Ms McCabe's private life but they were insufficient to mitigate the serious findings in this case. Mr Harris submitted that following the Social Work England guidance on removal, that was the only sanction which would meet the seriousness of the panel's findings.

Legal advice

65. The legal adviser advised the panel that the purpose of sanctions was not to be punitive but was to protect the public and the public interest. He advised that the panel should have regard to Social Work England's Guidance on Sanctions. He further advised that the panel should consider sanctions in an ascending order of seriousness, considering first taking no action, which he said would be exceptional, and then considering issuing a warning or advice. The legal adviser advised that an order of conditions would need to be workable, which would require engagement by Ms McCabe and an indication that she would comply with conditions. He advised that an order of suspension would protect the public whilst in force, but that the panel would have to consider whether it would meet the public interest in maintaining confidence in the profession. The legal adviser advised that if an order of suspension was insufficient to meet the needs of the case, then an order of removal from the register was inevitable.
66. The legal adviser advised that as Ms McCabe was not present, the panel should consider any mitigating factors which she might have raised in its deliberations.

The panel's decision on sanction

67. The panel first considered what mitigating factors were present in the case which should be taken into account in Ms McCabe's absence. It noted that personal issues were referred to in Ms McCabe's police interview and in the sentencing remarks of the Recorder in the Crown Court. [PRIVATE]. It also noted references to possible domestic violence and the unsupported claim by Ms McCabe that someone was intent on ruining her. The panel found these mitigating factors to be of little weight compared to the aggravating factors in the case.
68. The panel found that the aggravating factors in the case were the seriousness of the conduct of Ms McCabe's involvement with illegal drugs and weapons and her failure to recognise this, shown by her going on to commit two serious offences of driving under the influence of drugs without any apparent change in her conduct or lifestyle. The panel considered these to be serious aggravating factors in this case.

69. The panel found that there were serious questions over Ms McCabe's character and conduct. It considered that taking no action or issuing a warning or advice was wholly inadequate to protect the public and the public interest and would place no restriction on Ms McCabe's practice.
70. The panel found that an order of conditional registration would be unworkable as Ms McCabe had completely disengaged from the investigation and hearing process, and would not in any event meet the need to protect the reputation of the profession and Social Work England.
71. The panel carefully considered the guidance provided by Social Work England on suspension as a sanction:

"Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option."

It concluded that whilst suspension would during its currency protect the public, suspension was inappropriate where there seemed to be no realistic prospect of Ms McCabe remedying the misconduct found in this case. It also considered that because of the seriousness of its findings of misconduct and the apparent failure of her to recognise those failings, suspension would not meet the public interest in maintaining confidence in the profession.

72. The panel in considering whether suspension was a sufficient and appropriate sanction in this case also considered the Social Work England guidance on removal from the register.

"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."

The panel was wholly satisfied that Ms McCabe's serious and sustained misconduct, failure to engage in any way with her regulator, and the improbability of her being able or willing to remedy her conduct and deficiencies as a social worker, meant that removal from the register was the only outcome which met the need to protect the public and the public interest. It therefore directs that Ms McCabe's entry be removed from the register.

Interim Order

73. Following its findings on Sanction, the panel next considered an application by Mr Harris for an Interim Suspension Order to cover the appeal period before the Sanction becomes operative.
74. In considering this application, the panel was mindful of its earlier findings and decided that it would be wholly incompatible with those findings not to conclude that an interim order for the protection of the public and the public interest for the appeal period was necessary.

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

Right of Appeal

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

