

Social worker: Vivienne Thompson

Registration number: SW17934

Fitness to Practise

Final Order Review Meeting

Date of meeting: 04 January 2023

Meeting venue: Remote meeting

Final order being reviewed: Suspension order – (expiring 6 March 2023)

Hearing Outcome: Impose a new order namely removal order with effect from the expiry of the current order

Introduction and attendees

1. This is the second review of a final suspension order originally imposed for a period of 12 months by a panel of adjudicators on 11 October 2021, and subsequently extended for a period of 4 months by a panel of adjudicators on 23 September 2022.
2. Ms Vivienne Thompson did not attend and was not represented.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Kerry McKevitt	Chair
Suzanna Jacoby	Social work adjudicator

Hearings Team/Legal Adviser	Role
Simone Ferris	Hearings officer
Arabella Vahey-Crossley	Hearings support officer
Lynsey Denyer	Legal adviser

Service of Notice:

4. The panel of adjudicators (hereafter “the panel”) was informed that notice of this hearing was sent to Ms Thompson [social worker] by email to an email address provided by the social worker (namely their registered email address as it appears on the Social Work England register).
5. The panel of adjudicators had careful regard to the documents contained in the final order review service bundle as follows:
 - A copy of the notice of the final order review hearing dated 06 December 2022 and addressed to Ms Thompson at their email address which they provided to Social Work England,
 - An extract from the Social Work England Register detailing Ms Thompson’s registered email address,

- A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 06 December 2022 the writer sent by email to Ms Thompson at the email address referred to above the Notice of Hearing and related documents.

6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to 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 Thompson in accordance with Rules 16 and 44 of Social Work England's Fitness to Practise Rules (as amended) (the Rules).

Proceeding in the absence of the social worker:

8. 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:
 - a. Rule 43 which provides that where the registered social worker does not attend a hearing and is not represented, the panel may proceed to determine the matter, if they are satisfied that the registered social worker has been served or all reasonable efforts have been made to serve the registered social worker with notice of the hearing in accordance with these Rules.
 - b. The factors which a panel must bear in mind when deciding whether to exercise their discretion to proceed are those as set out in the case of *R v Jones (Anthony)* [2003] AC 1, HL. These include:
 - i. The nature and circumstances of the Registrant's behaviour in absenting themselves from the hearing;
 - ii. Whether the Registrant has voluntarily absented themselves from the proceedings;
 - iii. Whether an adjournment would resolve the Registrant's absence;
 - iv. If so, the likely length of any such adjournment;
 - v. The disadvantage to the Registrant in not being able to present their case.
 - c. The further guidance given to panels by the Court of Appeal in *GMC v Adeogba* [2016] EWCA Civ 162. The panel were mindful of the need to approach the question of proceeding in the absence of Ms Thompson with particular care and the factors it could consider when determining this, including:

-Whether the social worker has sought an adjournment and any indication from them that they would be willing or able to attend on an alternative date.

-The severity of the concerns

-Previous engagement with the process

-How likely is it that an adjournment would be likely to secure the social worker's attendance;
and

-The public interest and an expeditious disposal of the case

9. The panel considered all of the information before it. The panel noted that notice of this hearing had been duly served and that Ms Thompson should be aware of it. No application for an adjournment had been made by Ms Thompson and as such there is no guarantee that adjourning today's proceedings would secure her attendance. It further noted that there has been no engagement by Ms Thompson with Social Work England since an email from her on 7 February 2022.
10. The panel considered that Ms Thompson had been warned very clearly that the proceedings could take place in her absence and concluded that Ms Thompson has chosen voluntarily to absent herself. Having weighed the interests of Ms Thompson in regard to her attendance at the hearing with those of Social Work England and the public interest in an expeditious conclusion of this hearing before the expiry of the current period of suspension, the panel concluded that it was appropriate to proceed in the absence of Ms Thompson.

Proceeding with the final order review as a meeting:

11. The notice of final order review informed the social worker that the review could take place as a meeting. The notice stated:

If you wish to attend the electronic hearing, please confirm your intention by no later than 4pm on 20 December 2022. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide.

12. The panel received no information to suggest that the social worker had responded to the notice of final order review.
13. The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

"Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting."

14. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

Review of the current order:

15. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be determined in accordance with Paragraph 15(1) of Schedule 2 of The Social Worker's Regulations 2018 (as amended) and Social Work England's Fitness to Practise Rules 2019 (as amended).
16. The current order is due to expire on the 06 March 2023.

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

17. *Between the dates of 1 May 2018 and 30 September 2018, you:*

- *1. not proved*
- *2. not proved*
- *3. not proved*
- *Did not complete statutory visits within required timescales*
- *Provided a CV to an agency for use in seeking employment, which contained false and misleading information*
- *The matter described at particular 5 constitutes dishonesty.*

The previous final order review panel on 23 September 2022 determined the following with regard to impairment:

18. *The panel took into account the findings of the original panel that Ms Thompson had not engaged with the hearing, recognised the seriousness of her actions, shown regret, insight, remorse or remediation, and that there was a very high risk of repetition.*
19. *The panel noted that none of the recommendations of the panel have been addressed by Ms Thompson and aside from her email of 7 February 2022 there has been no engagement by her with Social Work England. There remains no demonstration of regret, insight, remorse or remediation. The panel concluded that there therefore remained a high risk of repetition of the misconduct.*
20. *The panel found that Ms Thompson's fitness to practise is currently impaired.*

The previous final order review panel on 23 September 2022 determined the following with regard to sanction:

No Action

21. *The panel concluded that, in view of the nature and seriousness of Ms Thompson's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect*

the public, maintain public confidence and uphold the reputation of the profession, given the high risk of repetition.

Advice or Warning

22. *The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Thompson's ability to practise and is therefore not appropriate where there is a current risk to public safety. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.*

Conditions of Practice Order

23. *The panel went on to consider a conditions of practice order. The panel took the view that given the misconduct findings in this case workable conditions could not be formulated.*

Suspension Order

24. *Having determined that a conditions of practice order would not be appropriate, the panel concluded that the appropriate sanction is a suspension order. A suspension order would prevent Ms Thompson from practising during the suspension period, which would therefore protect the public and the wider public interest.*
25. *The panel determined that the suspension order should be imposed for a period of 4 months. It noted that Social Work England has sought a period of 6 months, but considered that the purpose of extending the suspension rather than removing Ms Thompson's name from the register at this stage, is to give her one final chance to show that she is willing to;*
- a. engage with Social Work England;*
 - b. work on remediating her misconduct;*
 - c. take the steps that she needs to in order to be able to continue working as a Social Worker.*
26. *Having already had a twelve month period of suspension where no remediation has been demonstrated, a period of 4 months is a sufficient further period of time. This will ensure that if Ms Thompson does not wish to engage that the matter can be brought back before a reviewing panel promptly, when further consideration can be given to Ms Thompson's case including whether removal is now the proportionate sanction.*
27. *The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be disproportionate before this final opportunity is given for Ms Thompson to engage.*

28. *This panel cannot bind a future panel. However, Ms Thompson must understand the very real risk that she faces of having her name removed from the register if she does not engage. The recommendations of the original panel give a very clear indication of what will be of assistance to a reviewing panel, and what would be helpful to Ms Thompson herself, namely:*

-Ms Thompson's attendance;

-A written reflection on:

the seriousness of the misconduct found in this case and the reasons for it;

the impact of dishonesty by a social worker on the public's trust and confidence in the profession; and

the steps that Ms Thompson has taken to ensure that she doesn't repeat this misconduct;

References or testimonials from any paid or unpaid work undertaken; and

Steps that Ms Thompson has taken to keep her knowledge up to date.

Social Work England submissions:

29. The panel took into account the written submissions from Capsticks, instructed by Social Work England, in relation to impairment and sanction. They emphasised the following:

Social Work England will invite the Panel to direct that the Social Worker's name is removed from the register. At the last review meeting, the Panel outlined recommendations including writing a reflective piece and providing references or testimonials. To date, the Social Worker has not provided evidence in line with the recommendations of the previous Panels.

The previous Panel was particularly concerned by the lack of insight or remorse demonstrated by the Social Worker, and considered there to be a high risk of repetition.

The Social Worker was provided a further and final opportunity to engage with the proceedings while subject to an extended Substantive Suspension Order, however, the Social Worker has still not engaged with the previous Panel's recommendations, nor provided any new evidence or material, and therefore these issues remain.

Absent any evidence of remediation or further engagement Social Work England submit that the Social Worker's fitness to practise remains impaired.

Given the Social Worker's continued disengagement and lack of remedial action while subject to a Substantive Suspension Order for a total of 16 months, Social Work England invite the Reviewing Panel to impose a removal order as that is now the most appropriate and proportionate sanction in the circumstances.

Social Worker submissions:

30. There has been no engagement by Ms Thompson with Social Work England since her email dated 7 February 2022 and she has not submitted any of the recommendations made by the original panel which included writing a reflective piece and providing references or testimonials.

Panel decision and reasons on current impairment:

31. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panel; however, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's 'Impairment and sanctions guidance'.
32. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and previous review panel. The panel also took account of the submissions made on behalf of Social Work England.
33. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession. It reminded itself that:
- a. In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged and addressed the past impairments.
 - b. The panel must determine whether Ms Thompson's fitness to practise is impaired today, taking into account her conduct at the time of the events and any relevant factors since then such as whether the matters are remediable, have been remedied and any likelihood of repetition.
34. The panel first considered whether Ms Thompson's fitness to practise remains impaired.
35. The panel noted that none of the recommendations of either the final order panel or review panel have been addressed by Ms Thompson and, aside from her email of 7 February 2022, there has been no engagement by her with Social Work England. The panel noted that there has been no evidence of insight, remorse or remediation by Ms Thompson despite further opportunities to submit a reflective piece and evidence of insight. The panel noted that Ms Thompson had been provided with 3 opportunities to demonstrate insight and remorse. Firstly, at the final hearing, secondly at the first review meeting and thirdly at today's meeting and she has not done so. She had been provided with 2 opportunities to act upon the recommendations of the final order panel: firstly, at the review on 23 September 2022, and secondly today, and she has not done so. The panel considered that there had been a complete failure by Ms Thompson to comply with the recommendations of the final order panel.

36. The panel concluded that there therefore remained a high risk of repetition of the misconduct and as such Ms Thompson's fitness to practise remains impaired.

Decision and reasons

37. Having found Ms Thompson's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel accepted the advice of the legal adviser that under Schedule 2, paragraphs 15(1)(a) to (d) of the Regulations the panel can:

- a. extend or further extend the period for which the order has effect, provided that the extended period does not exceed three years;
- b. with effect from the expiry of the order, make any order which the original panel could have made provided that the period for which the orders have effect does not exceed three years in total;
- c. in the case of a Suspension Order, with effect from its expiry make a Conditions of Practice Order with which the social worker must comply if they resume practice as a social worker at the end of the period of suspension specified in the order.
- d. revoke the order with effect from the date of the review for the remainder of the period for which it would have had effect.

38. The panel had regard to all of the information before it and accepted the advice of the legal adviser.

39. The panel considered the submissions made by Social Work England which invited the panel to consider imposing a removal order. The panel also took into account the Sanctions Guidance published by Social Work England.

40. The panel was mindful that the purpose of any sanction is not to punish Ms Thompson, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Thompson's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

41. The panel concluded that, in view of the nature and seriousness of Ms Thompson's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession, given the high risk of repetition.

Advice or Warning

42. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Thompson's ability to practise and are

therefore not appropriate where there is a current risk to public safety. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

43. The panel went on to consider a conditions of practice order. The panel took the view that given the misconduct findings in this case, workable conditions could not be formulated due to the non-engagement by Ms Thompson.

Suspension Order

44. The panel went on to consider an extension to the current suspension order. The panel noted that Ms Thompson has been subject to a final order for a period of approaching 15 months and has failed, in that time, to demonstrate adequate insight into her actions and remediation. Having failed to take the opportunities given by the original panel and review panel, the panel concluded that there is little prospect of Ms Thompson using any subsequent opportunities. The panel considered that there would be no merit in ongoing suspension as there has been no engagement by Ms Thompson and no evidence on which the panel could be confident that a further period of suspension would result in further information or a demonstration of insight, remediation or remorse by Ms Thompson. In those circumstances, the panel concluded that the imposition of a suspension order would serve no useful purpose. It would merely prolong the process.

Removal Order

45. The panel went on to consider a removal order. The panel were satisfied they could consider that a removal order was available to the panel as the social worker's fitness to practise was originally found impaired on the basis of one or more grounds as set out in regulation 25(2), (a).
46. The panel reminded itself that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel noted that it had no evidence as to why Ms Thompson has not engaged with the process or acted upon the recommendations of the final order panel. The panel considered that it is not in the public interest to extend or prolong this process. The panel noted that the previous order review panel which sat on 23 September 2022 was clear that it was providing Ms Thompson with a final chance to demonstrate insight, remorse and remediation and she had not done so. The panel observed that the onus was on Ms Thompson to provide information to address the recommendations of the final order panel and she had not done so.
47. The panel also noted the efforts by Social Work England to enable Ms Thompson to present her case at the final hearing.
48. Having had careful regard to all of the evidence and circumstances of the case, the panel concluded that a removal order was the only order that would adequately protect the public and maintain public confidence in the profession and professional standards.

Right of Appeal:

49. Under Paragraph 16(1)(b) of Schedule 2 of The Social Workers Regulations 2018 (as amended), the social worker may appeal to the High Court against:

- a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order,
- b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

50. Under Paragraph 16(2) of Schedule 2 of The Social Workers Regulations 2018 (as amended) an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.

51. Under Paragraph 15(1A) of Schedule 2 of The Social Workers Regulations 2018 (as amended), where a social worker appeals against a decision made under sub-paragraph (1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.

52. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders

53. Under regulation 15(1), 15(2) and 15(3) of Schedule 2 of The Social Workers Regulations 2018 (as amended):

- 15(1) The regulator must review a suspension order, or a conditions of practice order, before its expiry.
- 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).

54. Under Rule 16(aa) of the Fitness to Practise Rules 2019 (as amended), a 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.

The Professional Standards Authority

55. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a review decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the high court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:

<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>