

Social Worker: Janet ME Brown

Registration Number: SW107387

Fitness to Practise:

Final Hearing

Date of hearing: 23 January 2023 to 27 January 2023

Hearing venue: Remote hearing

Hearing outcome: Fitness to practise impaired, 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 Brown did not attend and was not represented.
3. Social Work England was represented by Mr Matthew Stewart of Park Square Barristers, instructed by Capsticks LLP.

Adjudicators	Role
Jayne Wheat	Chair
Joma Wellings-Longmore	Social Worker Adjudicator
Angela Duxbury	Lay Adjudicator

Kathryn Tinsley	Hearings Officer
Thanvi Hoque	Hearings Support Officer
Charlotte Mitchell-Dunn	Legal Adviser

Service of notice:

4. Ms Brown did not attend and was not represented. The panel of adjudicators (hereafter “the panel”) was informed by Mr Stewart that notice of this hearing was sent to Ms Brown by email and next day delivery service to addresses provided by the social worker (namely their registered addresses as they appear on the Social Work England register). Mr Stewart submitted that the notice of this hearing had been duly served.
5. The panel of adjudicators 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 09 December 2022 and addressed to Ms Brown at their addresses which they provided to Social Work England;
 - An extract from the Social Work England Register as at 09 December 2022 detailing Ms Brown’s registered addresses;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 09 December the writer sent by email and next day delivery service to Ms Brown at the addresses referred to above: notice of hearing and related documents;
 - A copy of the Royal Mail Track and Trace Document indicating “signed for” delivery to Ms Brown’s address at 10.21am on 13 December 2022.
6. The panel noted Ms Brown’s email dated 08 September 2022 in which she states:

“...I do not understand the concerns. I am not registered and I have no intention of registering so I cannot work as a social worker which I repeat I would never want to do again. I may be being naive but feel if Social Work England feel I am such a danger

to the public they could surely advise the registration body, which I believe is now Social Work England to put something in place such that Social Work England would be warned if I tried to register again. I find it frustrating that I also get emails from Social Work England advising that it is time for me to pay up and register again, which obviously I have never responded to. I am getting seriously tired of this now and it is beginning to feel like harassment something I perhaps should seek advise about. There is no way I would attempt to attend any sort of review. The paperwork is soul destroying enough. I do not know whether I look forward to your response or not. You might want to use this email as evidence of whatever if you wish...."

7. The panel noted attempts made by Capsticks LLP to contact Ms Brown to assist her in understanding the proceedings. Further, the panel noted that Ms Brown had signed for but not responded to the notice of hearing.
8. The panel accepted the advice of the legal adviser in relation to service of notice.
9. Having had regard to Rule 14, 15 and 44 of the Social Work England's Fitness to Practise Rules 2019 (as amended) ('the Rules') and all 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 Brown in accordance with the Rules.

Proceeding in the absence of the social worker:

10. The panel heard the submissions of Mr Stewart on behalf of Social Work England. Mr Stewart submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Ms Brown, and as such there was no guarantee that adjourning today's proceedings would secure her attendance. Mr Stewart therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
11. 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 14, 15 and 44 of the Rules and the cases of *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also considered Social Work England guidance (16 December 2022) 'Service of notices and proceeding in the absence of the social worker'.
12. The panel considered all the information before it, together with the submissions made by Mr Stewart on behalf of Social Work England. The panel considered that, in light of Ms Brown's previous email dated 08 September 2022, an adjournment of the proceedings was unlikely to service any purpose. The panel noted that Ms Brown had been sent notice of this hearing and the panel was satisfied that she was or should be aware of the hearing date.
13. The panel determined that Ms Brown had voluntarily absented herself from these proceedings. The panel had no reason to believe that an adjournment would result in Ms Brown's attendance. Having weighed the interests of Ms Brown regarding their attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Brown's absence.

Preliminary matters:

Amendment to the allegation

14. During the oral evidence of MC, he confirmed that Ms Brown was in fact arrested and charged in the early hours of 26 December 2018 not the 25 December 2018. Social Work England did not apply to amend the allegation, however the panel noted that paragraph 2a and b contained the incorrect date of the 25 December 2018.
15. The panel was satisfied that an amendment was necessary to ensure the allegation was factually accurate. The panel therefore exercised its discretion to amend the allegation. The panel was satisfied that an amendment was not detrimental to Ms Brown as from her limited responses, she very clearly knew from the outset Social Work England's case. In any event, the panel determined the amendment was minor in nature and would only serve to make the allegation accurate. As such, the panel was therefore satisfied that Ms Brown would not be prejudiced by this amendment. The panel therefore amended the allegation in accordance with its powers under Rule 32.

Allegations:

Whilst registered as a social worker with the Health and Care Professions Council and employed by Nottinghamshire County Council:

1. On 25 December 2018, you drove a motor vehicle on 25 December 2018 after consuming so much alcohol that the proportion of it in your breath exceeded the prescribed limit.
2. Having been charged with a criminal offence on 26 December 2018, you:
 - a. Failed to inform your employer that you had been so charged between 26 December 2018 and 11 January 2019;
 - b. Failed to inform the Health and Care Professions Council that you had been so charged between 26 December 2018 and 19 March 2019.
3. Your conduct at Allegation 2(a) and/or (b) was dishonest.
4. On or around 1 November 2018, you
 - a. Failed to adequately investigate a safeguarding concern that Child A may be at risk of harm;
 - b. Put Child A at continued risk of harm by virtue of that failure.

Allegations 1-3 above amount to the statutory ground of misconduct

Allegation 4 above amounts to the statutory ground of misconduct and/or lack of competence or capability.

Your fitness to practise is impaired by reason of misconduct and/or lack of competence or capability.

Background:

16. On 19 March 2019, Social Work England received a referral from KL, a team manager in the Children and Families Court Team at Nottinghamshire County Council (“the council”), regarding Ms Brown.
17. Ms Brown first registered as a social worker on 10 October 2015. At the time the allegations arose, Ms Brown was employed as a social worker within the Children and Families Court Team at the council. Ms Brown joined the Team on 13 August 2018.
18. On 26 December 2018, Ms Brown was charged with driving a motor vehicle while exceeding the prescribed legal alcohol limit in breath. However, on 12 April 2019 at Sheffield Magistrates’ Court, the case was dismissed. The prosecution offered no evidence when her ex-partner did not attend court.
19. It is alleged Ms Brown failed to inform the council that she had been charged by the police. Prior to the incident, Ms Brown had been absent from work and this continued into January, but she was in communication with KL, who was her line manager, by text message. On 11 January 2019, 10 working days after she was charged, the council was informed by the Local Authority Designated Officer (“LADO”) that Ms Brown had been involved in a ‘domestic incident’. By a letter dated 16 January 2019, a request was made by the council for Ms Brown to discuss the incident with them. Ms Brown did not respond to any of the correspondence.

Child A

20. Prior to this incident, on 01 November 2018, the Multi-Agency Safeguarding Hub (“MASH”) team received a telephone call from a member of the public raising an allegation that Child A’s mother posted two Facebook statuses in which she stated (in relation to Child A), “I’m going to fucking kill her” and “I’m going to drop kick this kid if she carries on”. During the call, a further allegation was made that “someone had witnessed step-father punching and kicking [Child A]” but that Child A and her mother will deny it as Child A “is scared something else will happen to her”.
21. Child A was 4 years old at the time. Child A’s allocated social worker, NR, was not working on 01 November 2018, so the referral was passed to the duty team at the council and Ms Brown attended Child A’s address. It is alleged that there is no record that Ms Brown spoke with Child A alone, or at all, about the allegations. It is alleged that Ms Brown also did not record any discussion during her visit regarding the step-father punching or kicking Child A, as the contact from the member of the public had alleged.

22. Having returned to work, NR was informed of the allegations in respect of Child A and attended Child A's address on 06 November 2018. NR discussed the allegations with Child A's mother regarding the step-father punching and kicking Child A. The notes record that Child A's mother stated 'JP never hits [Child A] and only puts her on the naughty step'. Despite Child A's mother denying causing any physical harm, NR's view was that the comments were of great concern and required further exploration to ensure that Child A was not being harmed. NR spoke to Child A on her own and asked what happened when she was naughty and how she was punished; NR recorded that Child A told her without prompting that when she is naughty 'she gets slapped and put on the naughty step. NR's note stated "JP is the one who puts her on the naughty step and slaps her... I asked her where he slaps her, she said on the bum and in her face... [Child A] stated that this happens all the time. [Child A] was getting undressed at the time and there were no marks/bruises present on her body".
23. It is alleged that Ms Brown failed to adequately investigate the safeguarding concern in respect of Child A and, in doing so, put Child A at continued risk of harm.
24. On 19 March 2019, a Referral was made to the Health and Care Professions Council ("HCPC"). This was the same date that Ms Brown's employment with the council was ended. The referral raised concerns in line with the allegation as set out above.

Summary of Evidence:

25. The witness bundle contained written statements from 4 witnesses:
- i) ("MC") - A police officer with South Yorkshire Police
 - ii) ("NR") - Social Worker Practice Consultant at the Council
 - iii) ("KL") - Team Manager in the Court Team
 - i) ("JH") - an Investigator at Social Work England
26. Mr Stewart confirmed to the panel that he intended to call witnesses MC and KL, unless the panel had questions for NR or JH. The panel confirmed that it had no questions for NR or JH.

Evidence of MC

27. In his witness statement, MC stated as follows:
- 1) He is a police officer with South Yorkshire Police currently stationed at Moss police station.
 - 2) At 15.43 on 25 December 2018, he was on duty and received information to attend an incident in Handsworth, Sheffield. He attached a call log of the incident.
 - 3) He stated that; "On arrival, I observed a white female sat on a wall outside the address and a male stood on the pavement, there was a gold coloured Volvo saloon

car parked on the driveway front end up against the garage door. I could see the garage door was buckled slightly.

I approached the male who I now know to be witness SH-E who related to me that his ex-partner Janet Brown had driven a car from her home address while drunk to his home address and driven it onto his driveway colliding with his garage door. The vehicle a Volvo S40 SH-E owned, but he had allowed her to use for her commuting to work. He stated to me that Ms Brown was the name driver on the insurance policy. He stated he had taken Ms Brown to her home address following an argument and then 30 minutes later she had driven back in the Volvo. He stated that he had prevented her from leaving the scene to speak with the police.

I then approached the female, who I now know to be the defendant, Ms Brown. I asked Ms Brown to sit in my marked police vehicle and after introductions were made, I could see that she was unsteady on her feet her eyes were glazed, her speech was slurred and her breath smelled strongly of intoxicants, in my opinion she was drunk. I explained that I had reason to suspect that she had driven a motor vehicle on the road whilst over the prescribed limit of alcohol and that I would be requiring her to provide a sample of breath for analysis at the roadside.

At 16:20 hour the same day, I obtained a sample of breath for road side analysis from Ms Brown using approved hand-held device serial number 27256 which showed a fail and the following conversation then took place; Janet Brown, you have provided a sample of breath that indicates that you are over the prescribed level of alcohol and I am arresting you on suspicion of driving a motor vehicle on a road whilst over the prescribed limit of alcohol. You do not have to say anything, but it may harm your defence if you do not mention when questioned something that you later rely on in court. Anything that you do say may be given in evidence. This arrest is necessary to prevent further offences being committed and for prompt and effective enquiry to allow for evidential breath test procedure to be carried out”.

- 4) Ms Brown was conveyed to Shepcote custody suite where she was documented, searched and her detention was authorised.
- 5) He confirmed that another PC arrived at the incident and took two photographs using her mobile phone, one of the vehicle and the other of the damage to the garage door. She took no further part in the matter.
- 6) He confirmed that a breath alcohol test was undertaken on Ms Brown at the custody suite.
- 7) He confirmed a statement was taken from Ms Brown’s ex-partner at the scene.
- 8) He confirmed that Ms Brown was charged on 25/12/2018 with driving a motor vehicle on a road, after consuming so much alcohol that the proportion of it in her breath was 72 micrograms of alcohol in 100 millilitres of breath, exceeding the prescribed limit contrary to section 5(1) (a) of the road traffic Act 1988.

- 9) He confirmed that Ms Brown was formally charged in police custody and notified of this decision on 26/12/2018 before she was released.
28. MC was called to give evidence; he confirmed his witness statement and the information within the documents exhibited to his statement. Within his evidence he confirmed that Ms Brown was in fact charged on 26 December 2018 not the 25 December 2018. When asked by the panel whether he had seen Ms Brown driving at any stage, he confirmed that he had not, and that she was not in the vehicle when he arrived on the scene.

Evidence of KL

29. In her witness statement, KL stated as follows:
- 1) At the time of events, she was working as a team manager in the Court Team and had been in this role since September 2015. She was Ms Brown's team manager. Ms Brown joined her team on 13 August 2018.
 - 2) She did not find out about the events of 25 December 2018 until 11 January 2019 when the LADO informed her manager that Ms Brown had been involved in a domestic abuse incident on 25 December 2018. She believed the LADO would have been notified about this incident by the police. Her manager informed her on the same day she found out. She thinks she was told in person but she can't remember for certain.
 - 3) Ms Brown did not notify the council about these incidents or of her being charged by the police. She did not notify KL. Prior to the incident, the social worker had been off work. Ms Brown never kept up with her appointments with KL. She was due to meet up with Ms Brown on 11 January 2019 to discuss her absence. Ms Brown failed to attend this meeting as she could not get anyone to accompany her to it. Ms Brown was told she could bring someone for support. This was outlined in the letter she sent to her on 18 December 2018. The letter was sent by recorded delivery to Ms Brown's address, by recorded delivery to her sister's address and also by secure email to Ms Brown. The letter was sent to her sister's address as well as they were aware that Ms Brown would stay there at times.
 - 4) When she texted Ms Brown on the morning of 11 January 2019, she was not aware of the incident which had taken place on 25 December 2018. She attached the text messages between herself and Ms Brown from 04 January to 11 January 2019 as an exhibit.
 - 5) Once she had found out about the incident on 11 January 2019, she sent Ms Brown a text message at 12:22pm on 11 January 2019 and a letter on the same day. She then sent another letter on 16 January 2019 and on 18 January 2019.
 - 6) The council policy (Code of Conduct) at paragraph 43 states that "any officer facing criminal charges must inform their line manager without delay." Due to this, Ms Brown should have informed KL, as her line manager, as soon as she found out.

- 7) Ms Brown would have been aware of this policy as it is on the council's intranet and she would have been aware of the intranet. There is no specific training provided to social workers regarding use of the intranet other than being shown where things are on there.
 - 8) The impact of Ms Brown not reporting this incident to her was that Ms Brown was in breach of her employment contract.
 - 9) In respect of Child A, Ms Brown was not allocated to Child A. The social worker who was allocated to Child A was a part-time worker, NR who also had a student social worker, who worked with her.
 - 10) On 01 November 2018, the student social worker conducted a routine visit to Child A's home as the child was subject to court proceedings which meant that the family had to be visited on a regular basis, at least two or three times a week to check on the child's welfare and home conditions.
 - 11) The student social worker conducted the visit to Child A at 11:15am and it was a pre-arranged announced visit.
 - 12) On 01 November 2018 at 11:41am, a call was received by a member of the public to a support officer in the MASH team. The member of the public stated that she was concerned for Child A as she had seen two Facebook posts that Child A's mother had posted. One stating "I'm going to fucking kill her" and another stating "I'm going to drop kick this kid if she carries on." The caller believed these posts to be referring to Child A. The caller also stated that someone had witnessed Child A's step father punching and kicking Child A.
 - 13) Due to this call, Ms Brown was asked to go out on duty to visit Child A as Child A's social worker, NR, was not working that day as she worked part-time. The student social worker was unaware of this call as she was already at Child A's home conducting the routine visit when the call was received.
 - 14) Ms Brown attended Child A's home at 12:30pm, from the case notes of this visit, it was a very short visit and Ms Brown did not speak to Child A on their own, despite the allegations.
 - 15) Ms Brown should have spoken to Child A on their own and made visual observations to see if there were any marks on Child A's legs, arms, or face. Ms Brown should have spoken to Child A alone, as they may have disclosed to Ms Brown what was happening.
 - 16) Ms Brown potentially left Child A at risk of suffering harm.
30. KL was called to give evidence; she confirmed her witness statement and the information within the documents exhibited to her statement. Within her evidence she was asked about the usual practice and what information Ms Brown would have had prior to her visit to Child A. KL confirmed that Ms Brown would have had access to Child A's case notes, and it was an expectation that she would have read those notes prior to conducting the visit. KL

confirmed that Ms Brown was aware of the exact nature and reason for the visit, and this was evidenced at the top of her case notes.

Evidence of NR

31. In her witness statement, NR stated as follows:

- 1) She is a Social Worker Practice Consultant at the Council.
- 2) The social worker was her colleague at the council, she was in her team.
- 3) On 06 November 2018, she conducted a visit to Child A. She was the allocated social worker for Child A, who had been allocated to her on 19 September 2018. She was conducting this visit following on from the visits conducted by Ms Brown and a student social worker, on 01 November 2018.
- 4) She conducted the visit to follow up on the incident that had occurred on 01 November 2018 as she felt as though she had not fully explored what had happened. She was not at work on 01 November 2018 as she was working part-time so she could not conduct the visit herself.
- 5) On 01 November 2018, the MASH team received a call from a member of the public who stated that they had concerns about Child A as they had seen Child A's mother post two Facebook statuses which stated "I'm going to fucking kill her" referring to Child A, and another stating "I'm going to drop kick this kid if she carries on." She found out about this call when she came back to work 05 November 2018. This information was recorded on the children's case file but she thinks she was also emailed about the incident and visits. She cannot be certain if she was emailed as her emails from this time period are no longer saved in her inbox.
- 6) When a MASH referral comes in about a child who is already on file, it gets directed to the allocated social worker. However, as she was not in on that day, the duty team would have picked it up and they asked Ms Brown to visit.
- 7) Child A's family was already having frequent visits however she had to visit again to address the concerns from the incident that had occurred on 01 November 2018. During the visit on 06 November 2018, she asked Child A's mum about the comments on Facebook and Child A's mum said she should not have said what she did and she would never physically harm Child A.
- 8) The comments were of great concern and required further exploration to ensure the child was not being harmed by her mother.
- 9) During the visit, she also spent time with Child A on her own. Child A was age four years old at the time. She spoke with Child A about what happens when she is naughty and how she is punished. Without suggestion, Child A informed her that her mum's partner puts her on the naughty step and slaps her. She asked her where he slaps her and she said on the bum and in her face. Child A stated that this happens

all the time. She then asked Child A's mum about what she had been told and she denied any knowledge of her partner hitting Child A. Child A's mother was the only adult present during this conversation. She advised Child A's mum not to allow any unsupervised contact until they could assess it further.

- 10) Child A had shared information with her without being led. The child's voice needed to be heard, given the comments that her mum had made previously on Facebook. After she had conducted the visit, she called her manager, KL, straight away in the car outside to inform her of the disclosure that Child A had made to her. She explained that Child A's mother had admitted to making the comments on Facebook but denied knowledge that her partner had been physically harmful towards Child A.
 - 11) Following on from this disclosure, the health visitor became concerned, and the concerns were escalated through their escalation process, which social care are then alerted to. Shortly after the disclosure Child A's brother required a child protection medical due to the health visitor citing an unusual bruise on him. This incident along with the disclosure led to social care making an application to remove the children from their mother's care. An interim care order was then granted, and the children were removed from their mother's care. Prior to this incident, the threshold to remove the children had not been met. However, this incident, the Facebook posts and the disclosure, which was made by Child A, initiated escalation and added weight to the allegations of physical harm which meant the council could evidence the concerns.
 - 12) She stated that, *"Due to the concerns which were raised before the visit the social worker conducted on 01 November 2018 (regarding the Facebook posts), the Social Worker should have seen Child A alone, especially as this child was subject to a supervision order. It is standard practice to see children alone, as long as it considered age appropriate. If you see the child on their own, this allows them to be able to speak their wishes and feelings and potentially disclose information to you, as Child A did to me during my visit on 6 November 2018. This is common knowledge as a Social Worker. If the Social Worker was not sure what to do, she could have spoken to her manager. If such action is not taken, then evidence can be missed. In terms of proceedings, if a child has made a disclosure, this helps us in our evidence to remove children from their parents care, where this is a necessary step. Furthermore, if appropriate action is not taken, this can leave children at risk of further harm. In this case, if I had not spoken to Child A, we would not have had the disclosure from this child which led us to do further assessments and remove this child from their parents care"*.
32. NR was not called to give evidence, as Social Work England and the panel did not have any questions for this witness.

Evidence of JH

33. In his witness statement, JH stated as follows:
- 1) He is an Investigator at Social Work England.
 - 2) The HCPC received a referral in relation to Ms Brown from KL on 23 March 2019.
 - 3) Social Work England took over the role of regulating social workers in England from the Health and Care Professions Council (HCPC) from 1 December 2019.
 - 4) Social Work England first wrote to the social worker on 23 April 2020 to notify them that it had taken over the conduct of the case.
 - 5) He can confirm that on 29 June 2022, he checked the social worker's file on the case management system ("Forge") and he can confirm that there is no information and/or documentation on file to suggest that Ms Brown made a declaration to the HCPC that she had been charged with driving a motor vehicle whilst under the influence of alcohol.
 - 6) The HCPC's triage form for this case confirms that there were no existing or previous Fitness to Practise cases for Ms Brown as at 5 April 2019, and the only case in Social Work England's records for Ms Brown is the current case.
 - 7) The initial letter from the HCPC to Ms Brown, dated 9 April 2019 includes the concern of "not informing your employer or the HCPC of a criminal offence which you have been charged with," providing further indication that she had not declared the charge to the HCPC at this date.
34. JH was not called to give evidence, as Social Work England and the panel did not have any questions for this witness.

Finding and reasons on facts:

35. The panel accepted the advice from the legal adviser, which included the following:
- a. It is for Social Work England to prove the allegations upon the balance of probabilities;
 - b. All the evidence should be considered before making findings of credibility, and when making such findings, the panel should not rely exclusively on demeanour; and
 - c. Hearsay evidence must be treated with caution and consideration given to the weight, if any, that can be afforded to it;
 - d. Ms Brown is not in attendance at the hearing, however her non-engagement with the hearing should not be considered an indication of guilt;

- e. Ms Brown is of previous good character, which must be considered when determining the likelihood of her acting as alleged. It is one factor to consider together with all the evidence in the round;
- f. The test to be applied in respect of dishonesty allegations is set out by the leading Supreme Court authority, *Ivey v Genting Casinos*[2017] UKSC 67.

1. *On 25 December 2018, you drove a motor vehicle on 25 December 2018 after consuming so much alcohol that the proportion of it in your breath exceeded the prescribed limit*

- 36. The panel first considered the evidence in respect of paragraph 1. The panel noted that MC was the only witness relied upon by Social Work England to support the allegation within paragraph 1. Further, the panel noted that a significant amount of MC's evidence was hearsay evidence in the form of exhibits to his statement.
- 37. The panel noted that MC did not see Ms Brown drive a motor vehicle and confirmed in evidence that Ms Brown was not in a vehicle when he arrived.
- 38. The panel determined that the only evidence to support the allegation that Ms Brown drove a motor vehicle came from hearsay evidence, in the form of the witness statement of Ms Brown's ex-partner (which was provided for the purposes of the criminal investigation) and a 999 call transcript featuring Ms Brown's son.
- 39. This hearsay evidence was ruled as admissible at a previous case management hearing. The panel considered it was bound by that decision and therefore went on to consider what, if any, weight it could attach to this evidence. The panel first considered the witness statement of Ms Brown's ex-partner. The panel noted that Ms Brown's ex-partner had not given evidence in this matter, and had not attended to give evidence when this matter was the subject of a criminal investigation.
- 40. The panel observed that the evidence of Ms Brown's ex-partner was not given under oath and is untested. It was clear from the evidence that the relationship between Ms Brown and her ex-partner was acrimonious, and the panel was unable to resolve whether Ms Brown's ex-partner had any motive to misrepresent matters.
- 41. As such, the panel determined that it could place little to no weight on the witness statement of Ms Brown's ex-partner.
- 42. In respect of the 999 transcript, the panel determined that it could place little to no weight on this evidence for similar reasons. The maker of the statements within the 999 call, Ms Brown's son, has not provided a witness statement, nor evidence under oath, and therefore the account is untested. Further, the panel determined that it was unable to resolve whether Ms Brown's son had any motive to misrepresent matters, given the acrimonious relationship between his parents. As such, the panel determined that it could place little to no weight on the 999 transcript.

43. The panel noted that it was suggested by Social Work England that Ms Brown had made admissions to paragraph 1 in earlier representations, in that she had stated:

"I had had enough alcohol to know I shouldn't drive and I had no intention of doing this but on deciding to leave his home as it became obvious to me this was the safest option, I started to leave. He telephoned the police and reported me as a drunk driver...."

44. The panel determined that it is unclear from the above statement whether Ms Brown admitted or denied the allegation of driving a motor vehicle, further the panel determined that representations were too ambiguous to be considered as an admission by Ms Brown.
45. On the basis that the panel determined that it could place little to no weight on the hearsay evidence, and there was no other independent evidence to support the fact that Ms Brown was driving a motor vehicle, the panel found paragraph 1 not proved.

2. Having been charged with a criminal offence on 26 December 2018, you:

a. Failed to inform your employer that you had been so charged between 26 December 2018 and 11 January 2019;

46. The panel considered the evidence of KL, whom the panel found to be a clear and credible witness. KL, within her witness statement, clearly stated that she did not find out about the events of 25 December 2018 until 11 January 2019 when a LADO informed her manager that Ms Brown had been involved in a domestic abuse incident on 25 December 2018. She believed the LADO would have been notified about this incident by the Police.
47. The panel noted the evidence of MC that Ms Brown was notified of the decision to charge her with a criminal offence on 26 December 2022. Further, the panel noted that Ms Brown would have been aware that she had a court hearing date on 22 January 2019, as she had been bailed to appear at court on that date.
48. The panel observed the various text messages exchanged between KL and Ms Brown between 04 January to 11 January 2019, and noted that Ms Brown did not discuss the criminal charge that had been brought against her in those messages.
49. Further, the panel noted that under the Council's Code of Conduct at Paragraph 43, Ms Brown was required to inform the employer "without delay" when she had been charged by the Police.
50. The panel accepted the evidence of KL that this policy was available to staff on the council's intranet and Ms Brown would have been aware of the intranet.
51. Finally, the panel noted that it had not been provided with any evidence to support the fact that Ms Brown had informed her employers at any stage that she had been charged with a criminal offence. The panel observed that Ms Brown was written to about this on 16 January 2019 and did not respond.

52. The panel determined, therefore, that Ms Brown failed to inform her employer that she had been charged between 26 December 2018 and 11 January 2019 and the panel therefore found Paragraph 2a of the allegation proved.

2. Having been charged with a criminal offence on 26 December 2018, you:

b. Failed to inform the Health and Care Professions Council that you had been so charged between 26 December 2018 and 19 March 2019.

53. The panel noted the evidence of JH, who stated as follows:

“... on 29 June 2022, he checked the Social Worker’s file on the case management system (“Forge”) and he can confirm that there is no information and/ or documentation on file to suggest that Ms Brown made a declaration to the HCPC that she had been charged with driving a motor vehicle whilst under the influence of alcohol. The HCPC’s triage form for this case confirms that there were no existing or previous FTP cases for Ms Brown as at 5 April 2019, and the only case in Social Work England’s records for Ms Brown is the current case.”

54. The panel had no reason to doubt this evidence, which the panel determined was both credible and reliable.
55. The panel noted that under HCPC standards of conduct, performance and ethics (2016) in force at the time, Ms Brown was under a duty to inform her regulator promptly in the event she was subject to criminal proceedings. Standard 9.5 reads as follows:

‘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’

56. The panel further noted that it had not been provided with any evidence to support the fact that Ms Brown had informed the HCPC that she had been charged with a criminal offence.
57. The panel therefore determined that Ms Brown had failed to inform the HCPC that she had been charged between 26 December 2018 and 19 March 2019, and as such, the panel found Paragraph 2b of the allegation proved.

3. Your conduct at Allegation 2(a) and/or (b) was dishonest.

58. The panel first considered the actual state of Ms Brown’s knowledge or belief as to the facts. The panel observed that Ms Brown was notified of the decision to charge her with a criminal offence on 26 December 2018. Further, the panel noted that Ms Brown would have been aware that she had a court hearing on 22 January 2019, as she had been bailed to appear at court on that date.
59. The panel determined that Ms Brown would have been aware of the need to inform both her employer and her regulator if she was charged with a criminal offence. The panel considered that this obligation is clearly set out within both her employer's code of conduct

and within the HCPC standards of conduct, performance and ethics. The panel determined that as a relatively experienced social worker who had worked for her employer for more than 3 months, Ms Brown would have been aware of her obligations to both her employer and her regulator.

60. The panel did not consider there to be any possibility of Ms Brown mistakenly forgetting to inform her employer or her regulator. Ms Brown was in contact with KL between 04 January and 11 January 2019 and could have at any stage raised the issue. Ms Brown would have been aware that the issue may have impacted upon her employment, as it may have led to restrictions on her ability to drive. Further, on 16 January 2019, Ms Brown was written to by her employer about this issue.
61. The panel determined that there was no other reasonable explanation for her conduct other than she had knowingly concealed the fact that she had been charged with a criminal offence, as this may have led to disciplinary action.
62. The panel next applied the objective standards of ordinary decent people. The panel concluded that ordinary decent people would consider the actions of Ms Brown to be dishonest. The panel noted that Ms Brown failed to inform her employer and/or her regulator that she had been charged with a criminal offence, despite the clear obligation to do so and has not, at any stage, sought to provide an explanation for this.
63. The panel therefore found paragraph 3 proved in relation to paragraphs 2a and b.

4. On or around 1 November 2018, you

a. Failed to adequately investigate a safeguarding concern that Child A may be at risk of harm;

64. The panel noted the evidence of KL that Ms Brown attended Child A's home at 12:30pm on 01 November 2018, and from the case notes of this visit, it was a very short visit.
65. The panel reviewed the case notes and observed that Ms Brown had not recorded within the notes that she spoke to Child A on their own, nor had Ms Brown addressed the allegations made in the MASH referral regarding physical abuse of Child A by her stepfather. Further she had not recorded that she made visual observations to see if there were any marks on Child A's legs, arms or face. The panel noted that the case notes were entered on the same day of the visit at 14:24 and therefore were contemporaneous.
66. The panel considered the evidence of both KL and NR that, given the nature of the allegation, Ms Brown should have spoken to Child A alone, as she may have disclosed to Ms Brown what was happening. Further, the panel consider the evidence of NR that it was standard practice to speak to the child alone, if this was age appropriate.
67. The panel noted that NR visited Child A five days later, and during that visit, she spent time with Child A on her own and without suggestion, Child A informed her that her mum's

partner “puts her on the naughty step and slaps her”. Child A informed NR that her stepfather slaps her on the bum and in her face, and that this would happen “all the time”.

68. The panel considered the representations made by Ms Brown that she had spoken to Child A. However, the panel concluded that this was unlikely on the basis that there is no record of such an interaction within the contemporaneous case notes.
69. Based on the above evidence, the panel determined that Ms Brown should have spoken to Child A alone, but did not. The panel further determined that Ms Brown should have addressed the allegations of physical abuse by Child A’s stepfather with Child A’s mother.
70. The panel determined that Ms Brown should have made observations to see if there were any marks on Child A’s legs, arms or face, as this would have been another indicator of the severity of the concern. Child A was already the subject of a supervision order and therefore there would have been existing concerns in respect of Child A, and it would have been clear to any social worker involved that a thorough investigation of the allegations was required. The failures of Ms Brown resulted in a missed opportunity to safeguard and protect Child A’s well-being.
71. The panel determined Ms Brown’s above failures meant that she had failed to adequately investigate the safeguarding concern. The panel therefore found paragraph 4a proved.

b. Put Child A at continued risk of harm by virtue of that failure.

72. The panel noted that five days after the visit by Ms Brown, a disclosure was made by Child A which was serious, and this, alongside other factors, led to Child A eventually being removed from her mother and stepfather’s care.
73. The panel noted that Ms Brown’s failure to adequately investigate would have meant there was not a clear picture of the concerns for other professionals. The panel further noted it would have meant that Child A was left in the care of her mother and stepfather for a further five days without safeguards.
74. The panel determined that the disclosures made by Child A were serious in nature and demonstrated that she was being physically harmed, and Ms Brown’s failure to adequately investigate the matter put Child A at continued risk of harm.
75. The panel therefore found paragraph 4b proved.

Misconduct and impairment -submissions:

76. The panel heard submissions from Mr Stewart on behalf of Social Work England. He submitted that the facts found proved amounted to misconduct and/or lack of competence in the case of paragraph 4a and b.

77. Mr Stewart submitted that the misconduct was serious. He stated the public expected honesty and integrity and noted the panel's finding in respect of dishonesty. He submitted the conduct in respect of Child A was serious in nature, and Ms Brown was in breach of the following standards:

HCPC Standards of Conduct, Performance and Ethics 2016

- 3.1 *You must keep within your scope of practice by only practicing in the areas you have appropriate knowledge, skills, and experience for.*
- 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.*
- 7.6 *You must acknowledge and act on concerns raised to you, investigating, escalating, or dealing with those concerns where it is appropriate for you to do so.*
- 9.1 *You must make sure that your conduct justifies the public's 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.*
- 9.6 *You must co-operate with any investigation into your conduct or competence, the conduct or competence of others, or the care, treatment, or other services provided to service users.*

HCPC Standards of Proficiency 2017:

- 2.2 *Understand the need to promote the best interests of service users and carers at all times.*
- 2.3 *Understand the need to protect, safeguard, promote and prioritise the wellbeing of children, young people and vulnerable adults.*
- 2.4 *Understand, and be able to address, practices which present a risk to or from service users and carers, or others.*
- 2.7 *Understand the need to respect and, so far as possible, uphold the rights, dignity, values and autonomy of every service user and carer.*
- 4.1 *Be able to assess a situation, determine the nature and severity of the problem, and call upon the required knowledge and experience to deal with it.*

78. Mr Stewart set out the test in respect of current impairment. He submitted that Ms Brown had shown no insight. He submitted that based on Ms Brown's lack of engagement, there was a real risk of repetition. On this basis, he submitted Ms Brown's fitness to practice was currently impaired.

Panel considerations:

79. The panel considered all the evidence and the submissions. The panel accepted the advice of the legal adviser and was aware that:

- a. The overriding objective of Social Work England is to protect the public, which includes maintaining public confidence in social workers and maintaining professional standards of social workers.
- b. Whether the facts found amount to misconduct and/or lack of competence is a matter for the panel's independent judgement.
- c. There is no statutory definition of misconduct, but the panel had regard to the guidance given in *Roylance v GMC (No2)* [2001] 1 AC 311:
'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 standards ordinarily required to be followed by a... practitioner in the particular circumstances'.
- d. The conduct must be serious and fall well below the required standards (*Nandi v GMC* [2004] EWHC 2317).
- e. In respect of lack of competence or capability, the standard to be applied is that applicable to the post to which the registrant has been appointed and the work she was carrying out (*Holton v GMC* [2006] EWHC 2960 (Admin)). In relation to lack of competence, the standard should be shown to be unacceptably low and which (save in exceptional circumstances) has been demonstrated by reference to a fair sample of the social worker's work. (*Calhaem v General Medical Council* [2007] EWHC 2606 (Admin)).
- f. In the case of *Goodchild-Simpson v General Medical Council* [2014] EWHC 1343 (Admin) the High Court gave guidance on the adequacy of samples of work. What is required of a sample is simply that it be *'the best it can be'* and that it *'meet a basic threshold of relevance'*.
- g. A social worker's conduct should be considered in the light of any standards of conduct, performance and ethics or other fitness to practise requirements that were applicable to the social worker at the time of the alleged misconduct.
- h. When considering impairment, the panel should consider whether the misconduct is remediable and, if so, whether it has been remedied and what insight has been demonstrated by Ms Brown. The panel must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.
- i. The panel should have regard to the relevant guidance issued by Social Work England.

Finding and reasons on misconduct/lack of competency:

80. The panel considered that the proved facts of the allegation amounted to a breach of the following HCPC Standards of Conduct, Performance and Ethics (2016):
- 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.*
 - 7.6 You must acknowledge and act on concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.*
 - 9.1 You must make sure that your conduct justifies the public's 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.*
 - 9.6 You must co-operate with any investigation into your conduct or competence, the conduct or competence of others, or the care, treatment or other services provided to service users.*
81. The panel considered that the proved facts of the allegation amounted to a breach of the following HCPC standards of proficiency (2017):
- 2.2 Understand the need to promote the best interests of service users and carers at all times.*
 - 2.3 Understand the need to protect, safeguard, promote and prioritise the wellbeing of children, young people and vulnerable adults.*
 - 2.4 Understand, and be able to address, practices which present a risk to or from service users and carers, or others.*
 - 4.1 Be able to assess a situation, determine the nature and severity of the problem and call upon the required knowledge and experience to deal with it.*
82. The panel was therefore satisfied that the proved allegations amounted to a significant failure to adhere to the standards expected of someone in Ms Brown's position as an experienced social worker.
83. The panel noted in respect of paragraphs 2a and b and 3 of the allegation, Ms Brown acted dishonestly in failing to notify both her employer and her regulator in respect of the fact that she was charged with a criminal offence. The panel has determined that Ms Brown knew that she had been charged on 26 December 2018 and also knew of her obligation to report matters. The panel considered that were it not for the fact the LADO was informed, and Ms Brown's employer reported matters to the HCPC, the matters may not have come to light as promptly, or at all.

84. The panel observed that Ms Brown in her representations has not provided any explanation for her failure to inform her employer or her regulator of the criminal charge. The panel determined that the conduct of Ms Brown was deliberate, and her rationale was to conceal the fact that she had been charged with a criminal offence, as this may have led to disciplinary action.
85. The panel noted that dishonesty is always to be considered serious, and the panel was satisfied that members of the public and profession would be shocked at Ms Brown's behaviour, as it amounted to a breach of trust between her employer, the regulator, and the social work profession.
86. The panel therefore decided that in respect of paragraphs 2a and b and 3 of the allegation, the facts found proven amounted to serious misconduct.
87. In respect of paragraphs 4a and b of the allegation, the panel first considered whether the facts found proved amounted to a lack of competence or capability. The panel noted the advice it has received in respect of lack of competence being judged by reference to a fair sample of the social worker's work, save for exceptional circumstances. Further, the panel noted the advice it received in respect of the adequacy of samples of work in line with the authority of *Goodchild-Simpson v General Medical Council* [2014] EWHC 1343 (Admin). The panel determined that it had not been provided with an adequate sample of Ms Brown's work and this was not a case in which there were any identifiable exceptional circumstances. As such, the panel determined that it could not find a lack of competence or capability.
88. The panel went on to consider whether the conduct in paragraphs 4a and b of the allegation amount to misconduct. The panel noted that Ms Brown's failures in respect of Child A were very serious. Ms Brown's failure to investigate thoroughly led to the appropriate safeguarding not being in place for Child A, which in turn exposed Child A to the risk of physical and emotional abuse.
89. The panel noted that Child A was vulnerable and was already the subject of a supervision order. The ability to properly investigate referrals and safeguard service users from a risk of harm is a fundamental requirement of a social worker's practice, and the panel determined that Ms Brown's failures left Child A in an extremely vulnerable situation.
90. The panel was satisfied that members of the public and profession would be shocked at Ms Brown's failures in respect of Child A. The panel considered that Ms Brown's failings were serious, and could have resulted in significant harm to Child A.
91. The panel therefore decided that in respect of paragraphs 4a and b of the allegations, the facts found proven amounted to misconduct.

Finding and reasons on current impairment:

92. Having determined that the proved facts amount to misconduct, the panel considered whether Ms Brown's fitness to practise is currently impaired.
93. The panel had regard to the questions posed by Dame Janet Smith in her fifth Shipman report endorsed in the case of Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 Admin. In light of its findings on misconduct the panel concluded that Ms Brown had, in the past:
 - i. acted so as to put a member of the public at unwarranted risk of harm;
 - ii. brought the profession of social work into disrepute;
 - iii. breached fundamental tenets of the social work profession (in relation to acting honestly and safeguarding the vulnerable);
 - iv. acted dishonestly.
94. The panel considered that Ms Brown's misconduct in relation to Child A was capable of remediation. It considered that her dishonest conduct was more difficult, but not impossible, to remediate. In Ms Brown's response to KL dated 18 March 2019, in relation to Child A she states, *"if I did not do enough I have to take that onboard"*. In her written response to the Fitness to Practise team at Social Work England, dated 13 November 2020, Ms Brown questions the allegation that she was not trustworthy/dishonest. Ms Brown does not address the specific allegation of failing to notify her employer or the HCPC that she was charged with a criminal offence. In an email to JH, dated 22 July 2021, Ms Brown stated that, *"I will happily acknowledge I was not dealing with my work... life in a rational manner."*
95. There was no evidence that Ms Brown accepted her dishonest behaviour. The panel noted that overall there was limited engagement from Ms Brown in the regulatory process or in this hearing. The panel concluded that Ms Brown had not evidenced remediation, for example her efforts to retrain or address the failings in her practise.
96. The panel has no information regarding what, if any, work Ms Brown is undertaking. From her email correspondence to Social Work England, dated 08 September 2022, she indicated that she had *"no intention of registering so [she] cannot work as a social worker"*. She stated this was something she *"would never want to do again"*.
97. The panel noted Ms Brown has provided no evidence of insight. In fact, she demonstrated a lack of insight into these allegations when she stated, in her email of 08 September 2022, that, *"I do not understand the concerns"*. Ms Brown has not expressed remorse or regret, nor has she reflected on her conduct and the impact it may have had upon Child A, her employer, her regulator, or the social work profession as a whole.
98. The panel therefore considered that Ms Brown has not demonstrated remediation or insight. Ms Brown has had ample opportunity to provide such evidence within a written response or during the hearing.

99. Ms Brown's conduct placed Child A, a vulnerable child, at risk. Her misconduct relates to failings in her core obligations as a social worker. The panel considered that Ms Brown's dishonest conduct was a breach of a fundamental tenet of the profession. Due to these findings, together with an absence of evidenced remediation and limited insight, the panel concluded that there was a high risk of repetition of the misconduct.
100. The panel was satisfied that a finding of impaired fitness to practise was necessary to protect the public, particularly vulnerable service users. Further, the panel considered that reasonable, well informed, members of the public would be very concerned about Ms Brown's dishonest conduct and the potential consequences of her failings in relation to Child A. The panel therefore concluded that a finding of impaired fitness to practise was necessary to maintain and promote public confidence in the social work profession.
101. Given that Ms Brown's misconduct related to breaches of fundamental tenets of social work, namely honesty and the safeguarding vulnerable service users, the panel was satisfied that professional standards would not be promoted and maintained by a finding that Ms Brown's fitness to practise is not currently impaired, particularly considering the panel's assessment of limited insight and an absence of remediation.
102. The panel therefore concluded that, because of Ms Brown's misconduct, a finding of impaired fitness to practise was necessary to protect the public, promote and maintain public confidence in the social work profession and declare and uphold proper professional standards.

Summary of submissions- sanction:

103. Mr Stewart, on behalf of Social Work England, submitted that, considering the nature of the misconduct, the appropriate sanction was a removal order. He argued that such a sanction would adequately protect the public and the wider public interest, considering the severity of the misconduct.
104. Mr Stewart reminded the panel of its conclusions as to remediation, insight, and risk of repetition. He further stated that the case involved a finding of dishonesty and a finding that Child A was placed at risk.
105. Mr Stewart submitted that it was necessary to impose a sanction that restricted Ms Brown's practice, as nothing else would protect the public. He argued that, considering Ms Brown's lack of engagement with the regulatory process, conditions would not be workable and proportionate, nor was there any evidence that Ms Brown would comply with any conditions imposed.
106. Mr Stewart argued that a removal order was the most appropriate outcome and that a suspension order would not be appropriate, on the basis that this was not a case which fell short of removal. Mr Stewart submitted that Ms Brown's lack of insight and remediation meant the appropriate sanction was a removal order. He also stated that Ms Brown had failed to follow her employer's code of conduct and breached the standards. He referred to

the fact that Ms Brown had no intention to return to practise. He further referenced her lack of insight and referred to the risk posed to Child A by Ms Brown's failures.

Determination and reasons—sanction:

107. The panel accepted the advice of the legal adviser, that it must again pursue the overarching objective when exercising its functions. The panel must apply the principle of proportionality, balancing Ms Brown's interests with the public interest. The purpose of a sanction is not to be punitive, although a sanction imposed may have a punitive effect. The panel considered the least restrictive sanction first and then moved up the sanctions scale until it reached the sanction that was proportionate and appropriate. The panel had regard to the Social Work England 'Impairment and sanctions guidance', published on 19 December 2022, together with its determination of grounds and impairment.
108. The panel first considered the aggravating features of this case. The panel identified the following aggravating features:
 - a. Ms Brown's misconduct was serious and not isolated, she failed to comply with her employer's code of conduct, her regulator's standards and failed to investigate safeguarding concerns in respect of Child A;
 - b. Ms Brown's dishonesty was in the context of her work;
 - c. Ms Brown's inadequate investigation placed Child A at risk of physical and emotional harm;
 - d. Ms Brown has shown a lack of understanding of why a regulatory hearing is necessary, and she has engaged only on a very limited basis;
 - e. Ms Brown has made no admissions or acknowledgements in respect of her conduct and has shown no insight;
109. The panel further reminded itself of its findings in paragraph 88-89 above in respect of Child A namely:
 88. *The panel went on to consider whether the conduct in paragraphs 4a and b of the allegation amount to misconduct. The panel noted that Ms Brown's failures in respect of Child A were very serious. Ms Brown's failure to investigate thoroughly led to the appropriate safeguarding not being in place for Child A, which in turn exposed Child A to the risk of physical and emotional abuse.*
 89. *The panel noted that Child A was vulnerable and was already the subject of a supervision order. The ability to properly investigate referrals and safeguard service users from a risk of harm is a fundamental requirement of a social worker's practice, and the panel determined that Ms Brown's failures left Child A in an extremely vulnerable situation.*

110. The panel next considered whether there were any mitigating factors which it could identify. Given Ms Brown's limited engagement, the panel had little understanding of the reasons behind Ms Brown's failings. The panel noted that Ms Brown had stated *"I will happily acknowledge I was not dealing with my work... life in a rational manner."* The panel therefore took account of Ms Brown's description of difficult working relationships and difficult personal circumstances.
111. The panel further noted that Ms Brown does not have any prior regulatory findings against her.
112. The panel considered that taking no action, or issuing advice or a warning, would not adequately reflect the serious nature of Ms Brown's misconduct. These outcomes would not adequately protect the public, as they would not restrict Ms Brown's practice.
113. The panel has assessed there to be a high risk of repetition, and so considered that the public could not currently be adequately protected unless Ms Brown's practice is restricted. Further, taking no action, or issuing advice or a warning, would not maintain public confidence in the profession or promote proper professional standards, considering the panel's finding that Ms Brown acted dishonestly and her failings exposed Child A to a risk of harm.
114. The panel next considered whether a conditions of practice order would be sufficient to protect the public and wider public interest. The panel considered that this was not the type of case in which conditions of practice would be suitable given the panel's findings in respect of insight and remediation.
115. The panel reminded itself of the following paragraphs of the Impairment and sanctions guidance in respect of conditions of practice;

114. *Conditions of practice may be appropriate in cases where (all of the following):*

- *the social worker has demonstrated insight*
- *the failure or deficiency in practice is capable of being remedied*
- *appropriate, proportionate, and workable conditions can be put in place*
- *decision makers are confident the social worker can and will comply with the conditions*
- *the social worker does not pose a risk of harm to the public by being in restricted practice*

116. *When considering public protection, decision makers must fully assess insight and the social workers past engagement with the regulator and any employer. This should help to determine whether the social worker can comply with conditions of practice.*

119. *For example, conditions are unlikely to be appropriate in cases of (any of the following):*

- *sexual misconduct*
- *violence*
- *dishonesty*
- *abuses of trust*
- *discrimination involving a protected characteristic*

116. The panel noted its findings in relation to insight and determined that it could not be confident that Ms Brown can and will comply with the conditions. The panel was satisfied that workable conditions could not be formulated to adequately protect the public. Further, when considering the aggravating factors, the panel was satisfied that conditions would not be sufficient to maintain public confidence, or to promote proper professional standards.

117. The panel next considered a suspension order. The imposition of a suspension order would give an opportunity to Ms Brown to reflect and remediate but there is no evidence she wants to do this; indeed, to the contrary, as she has stated she is not registered and has no intention of registering and would never want to work as a social worker again.

118. The panel noted paragraph 138 of the Impairment and sanctions guidance, which reads as follows;

138. *Suspension is likely to be unsuitable in circumstances where (both of the following):*

- *the social worker has not demonstrated any insight and remediation*
- *there is limited evidence to suggest they are willing (or able) to resolve or remediate their failings*

119. The panel was not persuaded in this case to adopt the more lenient outcome of a suspension order. Ms Brown's misconduct was serious, and she has demonstrated limited insight and an absence of remediation. The panel have seen no evidence to suggest Ms Brown is willing (or able) to acknowledge or remediate her failings.

120. The panel noted the following paragraph of the Impairment and sanctions guidance;

148. *A removal order must be made where the decision makers conclude that no other outcome would be enough to (do one or more of the following):*

- *protect the public*
- *maintain confidence in the profession*
- *maintain proper professional standards for social workers in England*

149. *A removal order may be appropriate in cases involving (any of the following):*

...

- *dishonesty, especially where persistent and/or concealed (see section 'dishonesty')*

...

- *persistent lack of insight into the seriousness of their actions or consequences*
- *social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future)*

121. Ms Brown's conduct was serious, and in circumstances where she has shown no remorse, limited insight, and an absence of remediation. Ms Brown has demonstrated limited willingness to engage with Social Work England and therefore the proportionate outcome is a Removal Order. This is the only possible sanction that will properly:

- a. protect, promote and maintain the health, safety and well-being of the public, including vulnerable service users;
- b. promote and maintain public confidence in the profession; and
- c. promote and maintain proper professional standards within the profession.

Interim order:

122. In light of its findings on sanction, the panel next considered an application by Mr Stewart for an interim suspension order to cover the appeal period before the final order becomes effective.

123. The panel received advice from the legal adviser that as the panel has made a final order they may go on, without needing to give notice to Ms Brown, to impose an interim order to cover the appeal period or the period before any appeal is heard. Interim orders can be for a total period of 18 months. The adjudicators may make an interim order where they consider it necessary for the protection of the public or in the best interests of the social worker. Protection of the public can include wider public interest grounds.

124. The panel was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings and the imposition of a removal order to conclude that an interim suspension order was not necessary during the appeal period:

- a. to protect, promote and maintain the health, safety and well-being of the public, including vulnerable service users;
- b. to promote and maintain public confidence in the profession; and
- c. to promote and maintain proper professional standards within the profession.

125. 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.
126. 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:

127. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:
- 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.
128. Under Paragraph 16(2) of Schedule 2 of the regulations 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.
129. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
130. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

131. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:
- 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), and a final order does not have effect until after the expiry of that period
132. Under Rule 16(aa) of the rules 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:

133. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final 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>